

# The Report of the Daniel Morgan Independent Panel

June 2021

Volume 2



Return to an Address of the Honourable  
the House of Commons  
dated 15th June 2021  
for

# The Report of the Daniel Morgan Independent Panel

Volume 2

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# Chapter 5: The 2000 Murder Review: The Cold Case Review of the Investigation into Daniel Morgan's Murder

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## 1 Introduction

1. Today it is routine for unsolved murders, or cold cases, to be reviewed periodically, to explore whether new evidential opportunities exist which justify reopening the investigation. This was less the case prior to the millennium. However, in 1998 the Association of Chief Police Officers (ACPO) Crime Committee issued revised guidelines for the review of cold cases. Further to the guidelines, the Metropolitan Police determined that all undetected murders committed since 1997 should be reviewed, as well as, exceptionally, some murders committed before 1997. The murder of Daniel Morgan in 1987 was judged an exceptional case and was the first pre-1997 murder to be reviewed according to the new procedure.

2. In June 2000, a review of the investigation into the murder of Daniel Morgan commenced, undertaken by the Metropolitan Police Murder Review Group. DI Steve Hagger, assisted by two other officers, worked solely on the records generated by the two previous police investigations (Morgan One and Hampshire/Police Complaints Authority), as well as relevant intelligence

arising from other police operations (principally Operation Nigeria/Two Bridges). Their review was purely documentary: they did not interview officers previously involved in the case, nor did they contact Daniel Morgan's family. They did not work on any other matter at this time.

3. The Panel refers to the review, here and elsewhere in our Report, as 'the 2000 Murder Review'. DI Steve Hagger completed his 86-page Murder Review Report in October 2000. The Report contained 83 recommendations and, in addition, identified 22 considerations, or lines of enquiry, that a future investigation might consider. It was on the basis of this Murder Review Report, together with representations from other sources, that in 2001 the third investigation into Daniel Morgan's murder (Abelard One/Morgan Two) was mounted.

### 1.1 Chronology of key events relating to the 2000 Murder Review

- **Autumn 1998** Introduction of the Murder Investigation Manual by the Association of Chief Police Officers (ACPO) and the ACPO Crime Committee 'Revised Guidelines for Major Crime Reviews'.
- **24 September 1999** During the course of Operation Nigeria/Two Bridges, 11 suspects were arrested in connection with offences centred on a conspiracy to pervert the course of justice.
- **03 November 1999** DI Michael Gates, who had worked on Operation Nigeria/Two Bridges, was instructed to review the information gained from that operation relating to the murder of Daniel Morgan, to ascertain if there was new evidence.
- **16 November 1999** D/Supt Robert Quick wrote to DCI Barry Nicholson requesting a report cataloguing developments during Operation Nigeria/Two Bridges and providing an analysis of any new investigative opportunities.
- **02 February 2000** DI Michael Gates produced a report summarising five pieces of intelligence originating from Operation Nigeria/Two Bridges.
- **03 February 2000** Upon receipt of DI Michael Gates' report, DCI Barry Nicholson wrote to DAC Roy Clark, stating that '*it may now be appropriate for consideration to be given, to appointing a Murder Review Team*'.
- **03 February 2000** DCS David Wood forwarded DI Michael Gates' report to Commander Andrew Hayman. In his accompanying note, DCS Wood stated his agreement that the murder should be reviewed.
- **23 May 2000** DCI Barry Nicholson briefed DCS Barry Webb, first Head of the Murder Review Group, on the intelligence contained in DI Gates' report. As a result of that briefing, DCS Webb agreed to review the murder of Daniel Morgan.
- **26 June 2000** DI Steve Hagger was appointed to conduct the 2000 Murder Review under the Terms of Reference laid down by DCS Barry Webb.
- **06 October 2000** The review was completed, and the 2000 Murder Review Report was produced by DI Steve Hagger.
- **14 November 2000** DI Steve Hagger presented the 2000 Murder Review Report to senior officers, and a re-investigation was agreed.



- **February 2001** As a result of the 2000 Murder Review Report, the Abelard One/Morgan Two Investigation was established (see Chapter 6, The Abelard One/Morgan Two Investigation).

## Officers of significance in the 2000 Murder Review, in order of rank

- Deputy Assistant Commissioner Roy Clark
- Detective Chief Superintendent Barry Webb
- Detective Inspector Steve Hagger

## 2 Background to the 2000 Murder Review

4. In 1998, the Association of Chief Police Officers (ACPO) introduced two policy documents, both of which included reference to the cold case review of murder investigations. The 'Murder Investigation Manual', introduced in September 1998, stated that *'it is good practice to periodically review undetected murder cases. It is suggested this is undertaken at least every two years.'*<sup>1</sup>

5. The other policy document, the ACPO Crime Committee's 'Revised Guidelines for Major Crime Reviews', stated that:

*'[t]he objective of any review is to constructively evaluate the conduct of an investigation to ensure:*

- *It conforms to nationally approved standards;*
- *It is thorough;*
- *It has been conducted with integrity and objectivity;*
- *That no investigative opportunities have been overlooked;*
- *That good practice is identified.'*<sup>2</sup>

6. The purpose of such cold case reviews was to be of assistance to the police, primarily by checking the work undertaken and by recommending lines of enquiry. The Metropolitan Police Special Notice 6/99, dated March 1999, stated the following:

*'It is important to stress that there is an absolute need for a review to be carried out in a spirit of co-operation between the reviewing officer and the SIO [Senior Investigating Officer]. The review should always be regarded by an SIO as being of assistance and support to the investigation.'*<sup>3</sup>

1 Association of Chief Police Officers, 'Murder Investigation Manual', MPS109705001, p247, September 1998.

2 Association of Chief Police Officers, 'Murder Investigation Manual', MPS094339001, p229, 2006.

3 Special Notice 6/99, MPS107551001, p15, 31 March 1999.

7. The Metropolitan Police Special Notice 6/99 further stated that:

*'[u]ndertaking a cold case review on all existing unsolved murders will not be practical. The cold-case review procedure will apply to all undetected murders committed after Wednesday 1 January 1997. Consideration should be given to reviewing older cases as workload permits.'*<sup>4</sup>

## 2.1 Operation Nigeria/Two Bridges draws to a close

8. In September 1999, Operation Nigeria/Two Bridges, which had focused on links between corrupt police officers and Law & Commercial (formerly Southern Investigations, the business that had been managed jointly by Jonathan Rees and Daniel Morgan), led to a number of arrests. On 24 September, 11 people were arrested in connection with offences centred on a conspiracy to pervert the course of justice (see Chapter 4, Operation Nigeria/Two Bridges). Officers continued to receive information relevant to Operation Nigeria/Two Bridges after the arrests.

9. Further to requests from Daniel Morgan's brother, Alastair Morgan, in September and October 1999, both Richard Livsey MP<sup>5</sup> and Chris Smith MP<sup>6</sup> wrote to DAC Roy Clark, who had led the operation, seeking information as to whether evidence gathered had been assessed in relation to the murder of Daniel Morgan. DAC Clark replied in similar terms to both letters.<sup>7,8</sup> In his letter to Richard Livsey MP, he said the following (emphasis in original):

*'I also indicated [to Alastair MORGAN and Isobel HÜLSMANN, Daniel MORGAN's mother] that we have not yet uncovered any additional evidence that would justify the arrest and charge of any person for the murder of Daniel MORGAN. However, our enquiries remain very active, are ongoing and involve many investigating officers.'*<sup>9</sup>

10. It was inaccurate of DAC Roy Clark to describe ongoing enquiries into Daniel Morgan's murder as 'very active' and involving 'many investigating officers'. The Panel's analysis has shown that between September and November 1999, enquiries were limited to intelligence interviews held with two individuals, and the focus had been on police corruption generally, not Daniel Morgan's murder.

11. Alastair Morgan's ongoing campaigning coincided at this time with the Association of Chief Police Officers' policies in 1998 to carry out murder reviews, and with the publicity surrounding Operation Nigeria/Two Bridges. This campaigning, including Alastair Morgan liaising with Richard Livsey MP and Chris Smith MP, was influential in prompting the Metropolitan Police to evaluate the evidence obtained in relation to Daniel Morgan's murder during Operation Nigeria/Two Bridges.

4 Special Notice 6/99, MPS107551001, p20, 31 March 1999.

5 Letter from Richard Livsey MP to DAC Roy Clark, MPS046677001, p18, 28 September 1999.

6 Letter from Chris Smith MP to DAC Roy Clark, MPS046677001, p15, 14 October 1999.

7 Letter from DAC Roy Clark to Richard Livsey MP, MPS046677001, pp16-17, 15 October 1999.

8 Letter from DAC Roy Clark to Chris Smith MP, MPS046677001, p14, 20 October 1999.

9 Letter from DAC Roy Clark to Richard Livsey MP, MPS046677001, p16, 15 October 1999.

## 2.2 DI Michael Gates' report

12. On 03 November 1999, DI Michael Gates of the Complaints Investigation Bureau 3 (CIB3), the anti-corruption unit that had worked on Operation Two Bridges (See Chapter 4 Operation Nigera/Two Bridges), was instructed to '*review information gained during Operation Two Bridges relating to the murder of Daniel MORGAN and ascertain is [sic] there is any new evidence relating to this offence*'.<sup>10</sup>

13. On 16 November 1999, D/Supt Robert Quick, who was in CIB3, wrote to DCI Barry Nicholson (the Senior Investigating Officer responsible for Operation Two Bridges), stating:

*'I am aware you have commissioned an internal review by DI Gates of any progress that can be said we have made in respect of the investigation of the murder of Daniel Morgan. [...] In order to asset [sic] in determining the best course I require a detailed report cataloguing all relevant developments during the course of Two Bridges and an analysis of any new investigative opportunities.'*<sup>11</sup>

14. DI Michael Gates produced a three-page report on 02 February 2000. This stated that: '*[d]uring the course of the investigation information and intelligence concerning the murder of Daniel MORGAN has been forthcoming from a number of sources*'.<sup>12</sup> DI Gates summarised five pieces of intelligence, four of which contained new information apparently relevant to the investigation of Daniel Morgan's death. These were as follows:

- i. That, on 13 August 1999, a man believed to be Glenn Vian (brother-in-law of Jonathan Rees) attended Law & Commercial and spoke to Jonathan Rees. The report noted that the conversation '*appears to relate to a discussion centred on the disposal of a car*';<sup>13</sup> that '*Jimmy COOK is mentioned*' (James Cook, an associate of Jonathan Rees);<sup>14</sup> and that '*no one is named as being directly responsible for getting "Rid of the car"*'.<sup>15</sup> The report stated that the information was loosely corroborated by an identified source, Person F11, who told the police that James Cook '*drove Daniel MORGAN'S murderer away from the scene in a car which was initially stored in a garage by [Person P9]*'.<sup>16</sup> The report noted that Person F11 subsequently retracted the information, and that Person P9 '*steadfastly refused*' to comment on the information, in the view of the officers concerned, out of '*fear for his personal safety and that of his family*'.<sup>17</sup>
- ii. That information had been received via Surrey Police from someone claiming to have knowledge of Daniel Morgan's murder (but which, according to the report by DI Michael Gates, appeared to be factually incorrect) and that the Metropolitan Police had asked Surrey Police for further information, but none was received. The Panel has identified no further documentation in relation to this.

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10 Action A979, MPS099265001, pp1-2, 03 November 1999.

11 Minute from D/Supt Robert Quick to DCI Nicholson, MPS046677001, p9, 16 November 1999.

12 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p11, 02 February 2000.

13 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p11, 02 February 2000.

14 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p11, 02 February 2000.

15 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p11, 02 February 2000.

16 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, pp11-12, 02 February 2000.

17 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p12, 02 February 2000.

- iii. That, in October 1999, William Newton, an accountant employed by Law & Commercial, made contact with the police, claiming to have information about Daniel Morgan's murder. DI Michael Gates' report stated that William Newton was interviewed but was unable to provide any information of value, and concluded that:

*'[i]t is the belief of the interviewing officers that MR. NEWTON'S approach to police was motivated by self protection in that he was aware of the corrupt and dishonest dealings undertaken by Law and Commercial .It [sic] is considered that he wished to prevent his own arrest by giving the appearance of an honest and conscientious individual.'*<sup>18</sup>

- iv. That, in November 1999, a police officer<sup>19</sup> who was attached to Streatham Police Station contacted the office of DI Michael Gates to pass on some information. He had been investigating an assault between two former employees of Southern Investigations, David Bray and one other, the alleged victim of the assault. The alleged victim claimed that David Bray, the alleged assailant, had told him that he had heard that the police were reinvestigating the murder of Daniel Morgan. The alleged victim also claimed that David Bray had told him not to talk to the police or give them any information. DI Gates then stated:

*'[o]fficers from this office contacted [the alleged victim] and spoke to him at length. It was apparent that [the alleged victim] had nothing to add in the way of information or evidence concerning the murder of MR. MORGAN other than vague impressions that BRAY was acting suspiciously.'*<sup>20</sup>

15. The Panel has set out further analysis of items i and iii above, regarding the conversation relating to the disposal of a car, and William Newton's claim to have information, in Chapter 4, Operation Nigeria/Two Bridges.

16. The report by DI Michael Gates concluded by suggesting that *'[i]n addition to the avenues of enquiry discussed thus far it is thought, in the light of scientific advances in DNA identification, that a re-examination of existing forensic evidence would be a primary consideration'*.<sup>21</sup>

17. Upon receipt of the report by DI Michael Gates, DCI Barry Nicholson (also of the Complaints Investigation Bureau 3, CIB3) submitted a minute to DAC Roy Clark, who was then responsible for murder reviews, stating the following:

*'It was obvious during the investigation [Operation Nigeria/Two Bridges] that Glen [sic] VIAN and Jonathan Ree's [sic] were concerned about any mention of the Daniel Morgan Murder in the Media. The conversation recorded on the 13th August 1999 indicates their worries, including the mention of Jimmy Cook, who may have been involved in the murder.'*

*'There are very little new leads to assist a Murder investigation. The new advances in the field of Forensic evidence may assist this investigation. It may now be appropriate for consideration to be given, to appointing a Murder Review Team into the Murder of Daniel Morgan.'*<sup>22</sup>

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18 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p13, 02 February 2000.

19 Information report, MPS040634001, p2, 9 November 1999.

20 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p12, 02 February 2000.

21 Report re Operation Two Bridges by DI Michael Gates, MPS046677001, p13, 02 February 2000.

22 Minute from DCI Barry Nicholson to DAC Roy Clark, MPS046677001, p10, 03 February 2000.

18. This minute went via DCS David Wood, of CIB3, who then forwarded it, with DI Michael Gates' report, to Commander Andrew Hayman of the Complaints Investigation Bureau, with the following note:

*'You may want sight of these papers. I agree that the murder should now be reviewed in the light of the new information.'*<sup>23</sup>

19. On 23 May 2000, DCI Barry Nicholson briefed DCS Barry Webb, Head of the Murder Review Group, in a report on the potential leads identified in DI Michael Gates' report. According to DCI Nicholson, DCS Webb *'agreed to review the MORGAN murder and treat the investigation as a "Special Investigation"'*.<sup>24</sup>

20. The Panel asked former DI Steve Hagger, in interview, why DCS Barry Webb had referred to the review as a *'Special Investigation'*.<sup>25</sup> Former DI Hagger said that he did not know what the term meant, but possibly it was used because the review was outside of the normal two-year time limit for murder reviews, as set out in the Murder Investigation Manual (see paragraph 4 above).<sup>26</sup>

21. The Panel has seen no document which makes clear who instigated a cold case review of Daniel Morgan's murder. However, it is noted that DAC Roy Clark was at the time responsible for murder reviews and had told the family as early as April 2000<sup>27</sup> that he planned to have a review carried out. The Complaints Investigation Bureau 3 (CIB3), who had run Operation Two Bridges, had also been suggesting a review be carried out towards the end of 1999.<sup>28</sup>

22. The Metropolitan Police acted appropriately in ordering a cold case review of Daniel Morgan's murder. New, relevant intelligence had been gathered since the Morgan One and Hampshire/Police Complaints Authority investigations. This justified reviewing a murder which occurred in 1987.

### 3 The Terms of Reference of the 2000 Murder Review

23. The Terms of Reference for the 2000 Murder Review, set by DCS Barry Webb, were as follows:

*'To undertake a cold case review of the investigation into the death of Daniel John MORGAN, which occurred on Tuesday 10 March 1987.*

*(a) To assess if all reasonable investigative leads have been exhausted.*

*(b) To establish if new evidence and/or changes in investigative techniques is available.*

23 Minute from DCS David Wood to Cdr Andy Hayman, MPS046677001, p10, 03 February 2000.

24 Report from DCI Barry Nicholson to DCS Robert Quick, MPS049767001, p1, 02 August 2000.

25 Minute from DCI Barry Nicholson to DCS Robert Quick, MPS049767001, p1, 02 August 2000.

26 Panel interview with former DI Steve Hagger, p5, para 40, 31 May 2016.

27 Note of family meeting with DAC Roy Clark, MPS046679001, p9, 04 April 2000.

28 Minute from D/Supt Robert Quick to DCI Nicholson, MPS046677001, p9, 16 November 1999.

(c) *To evaluate whether events since the original two investigations has [sic] led to potential for key witnesses to change allegiances.*

*'The review will focus upon the following:-*

- 1. Forensic opportunities.*
- 2. Locating relevant exhibits and documentation.*
- 3. Evidential issues.*
- 4. Key witness – analysis of evidence and whether they have changed allegiance.*
- 5. Suspect availability.*
- 6. Whether recent developments in regard to some of the original suspects offers [sic] any pro-active opportunities.*

*'The report to include a recommendation as to whether a focused reinvestigation should be undertaken.'*<sup>29</sup>

24. The 2000 Murder Review began on 26 June 2000, when DI Steve Hagger was appointed to lead the review under these Terms of Reference. DI Hagger reported to DCS Barry Webb. He was supported by a Detective Sergeant and a Detective Constable.<sup>30</sup>

25. In interview, former DI Steve Hagger told the Panel that the Daniel Morgan case was the first occasion when there had been a review, under the new procedures, of a murder occurring before 1997. The case was high profile, and the 2000 Murder Review team were given more resources than became standard; the review team worked exclusively on the case for three to four months, whereas in later years, most Murder Review Group teams reviewed several cases simultaneously.<sup>31</sup>

26. The relatively generous staffing and duration of the 2000 Murder Review was justified by the high public profile of the case and the suggestion that police corruption might have played a part.

27. In accordance with its Terms of Reference, one of the purposes of the review was to *'establish if new evidence and/or changes in investigative techniques is available'*.<sup>32</sup> Former DI Steve Hagger told the Panel that the Terms of Reference became the standard for all murder reviews during his time in the Murder Review Group, between 2000 and his retirement in 2007.<sup>33</sup>

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<sup>29</sup> Appendix A: Terms of Reference, MPS054324001, p4, 06 October 2000.

<sup>30</sup> 2000 Murder Review Report, MPS020525001, p7, para 3.3, 06 October 2000.

<sup>31</sup> Panel interview with former DI Steve Hagger, p1, para 5, 31 May 2016.

<sup>32</sup> Appendix A: Terms of Reference, MPS054324001, p4, 06 October 2000.

<sup>33</sup> Panel interview with former DI Steve Hagger, p1, para 6, 31 May 2016.



## 4 The 2000 Murder Review Report: methodology

28. The 2000 Murder Review Report, completed in October 2000, summarised briefly the sequence of events occurring between 18 March 1986, when the Belmont Car Auctions robbery (the alleged theft of auction takings in an assault on Jonathan Rees) occurred, and 26 June 2000, when the 2000 Murder Review began.<sup>34</sup>

29. The 2000 Murder Review Report described its methodology, stating:

- i. *'Exhibits and papers have been located and collated.'*
- ii. *'Forensic opportunities were explored in light of advances in techniques.'*
- iii. *'Investigative leads from the original enquiries have been closely examined.'*
- iv. *'The assessment of key witnesses [...] has been undertaken.'*<sup>35</sup>

30. In accordance with the Terms of Reference, the 2000 Murder Review was purely a review of documents, evidence and forensic exhibits, rather than one involving such additional steps as interviewing the Senior Investigating Officer or others involved in the original investigation, such as witnesses, for example.

31. In interview with the Panel, former DI Steve Hagger explained that the 2000 Murder Review Report was based on a review of papers from the Morgan One and Hampshire/Police Complaints Authority investigations, referred to in the Report as the Metropolitan and Hampshire investigations, and was in no sense restricted to consideration of Metropolitan Police activities in relation to the case.<sup>36</sup> Former DI Hagger said he had access to all the material from the Morgan One and Hampshire/Police Complaints Authority investigations and recalled visiting Hampshire Constabulary and speaking to officers there about retrieving their material, as well as reviewing their documents on the HOLMES police database.

32. The largest task undertaken by the 2000 Murder Review team was the audit of the police computer database to look at all the police 'messages', 'actions' and other documents generated by the Morgan One Investigation, for the purpose of identifying any new investigative opportunities. All 1,002 messages, 1,737 actions, and 531 other documents were viewed.<sup>37</sup> The 2000 Murder Review Report noted that these were *'generally found to be properly processed'*.<sup>38</sup> The review of messages, actions and other documents alone led the 2000 Murder Review team to make 50 recommendations for further investigation.<sup>39</sup>

33. The Panel has seen no evidence that a comparable audit of the Hampshire/Police Complaints Authority Investigation was undertaken by the 2000 Murder Review team.

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34 2000 Murder Review Report, MPS020525001, pp9-12, paras 5.1-5.19, 06 October 2000.

35 2000 Murder Review Report, MPS020525001, p6, paras 2.8, 2.9, 2.11 and 2.12, 06 October 2000.

36 Panel interview with former DI Steve Hagger, pp1-2, paras 8-10, 31 May 2016.

37 2000 Murder Review Report, MPS020525001, p40, para 6.10.1, 06 October 2000.

38 2000 Murder Review Report, MPS020525001, p41, para 6.10.4, 06 October 2000.

39 2000 Murder Review Report, MPS020525001, pp41-63, paras 6.11-6.13.22, 06 October 2000.

34. The 2000 Murder Review team undertook a detailed examination of the messages, actions and other documents generated in the Morgan One Investigation. However, no equivalent enumeration was provided in the 2000 Murder Review Report for the Hampshire/Police Complaints Authority Investigation and, as will be seen (see paragraphs 126-129 below), no operational recommendations were made on the basis of the Hampshire/Police Complaints Authority documentation. There is, therefore, no evidence of similar scrutiny of the Hampshire/Police Complaints Authority Investigation. In order to complete the review of the investigations into the murder of Daniel Morgan, an analysis of messages, actions and other documents from the Hampshire/Police Complaints Authority Investigation was also necessary. This was a shortcoming. An analysis of messages, actions and other documents from the Hampshire/Police Complaints Authority Investigation might also have resulted in fruitful recommendations for further investigation.

#### 4.1 DCS Douglas Shrubsole's Review

35. The 2000 Murder Review Report noted that between October and December 1987, a review of the Morgan One Investigation had been undertaken by DCS Douglas Shrubsole (see Chapter 1, The Morgan One Investigation). The Report stated:

*'Detective Chief Supt SHRUBSOLE, the Senior Detective for the area in which the murder occurred, states that between 12 October 1987 and 04 December 1987 he examined every action, message and statement relating to the case. He was satisfied that all reasonable lines of enquiry had been identified and that the investigation was completely thorough and professional. This was of course before the Major Crime review had introduced such things as policy files and decision logs. It is now impossible to verify the decisions and policy made by the investigating team but it is obvious that the Metropolitan Police identified the MORGAN investigation as problematic from the outset and this early "health check" indicates the professional approach being taken.'*<sup>40</sup>

36. The Panel asked former DI Steve Hagger, in interview, about his examination of DCS Douglas Shrubsole's review. He stated that he could not remember having met DCS Shrubsole, nor having seen any documents relating to the review undertaken by him. Former DI Hagger believed that his knowledge of DCS Shrubsole's review may have been solely based on a statement made by DCS Shrubsole, following completion of his review.<sup>41</sup>

37. Former DI Steve Hagger further stated to the Panel that his comment *'this early "health check" indicates the professional approach being taken'* was intended to demonstrate that it was good practice getting someone to review the investigation, not that the *'health check'* or the investigation itself was good.<sup>42</sup>

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40 2000 Murder Review Report, MPS020525001, p10, para 5.6, 06 October 2000.

41 Panel interview with former DI Steve Hagger, p2, para 11, 31 May 2016.

42 Panel interview with former DI Steve Hagger, p2, para 12, 31 May 2016.



38. The Panel is critical of the way in which DCS Douglas Shrubsole's review was reported in the 2000 Murder Review Report. The assertion by DCS Shrubsole that the Morgan One Investigation was '*completely thorough and professional*' was reported without comment, implying that this was the case. In addition, the description of DCS Shrubsole's review as representing a '*health check*', indicative of a '*professional approach*', further gave the impression that the review by DCS Shrubsole was effective.

There is no evidence to support either of these assertions, as should have been apparent to DI Steve Hagger as a result of his review. The 2000 Murder Review Report's apparent endorsement of the professionalism of DCS Shrubsole's review by describing it in such terms had the effect of negating justified criticism of past Metropolitan Police failings, of which the Panel has identified many (see Chapter 1, The Morgan One Investigation).

## 4.2 Unviewed material

39. The Panel has seen a policy file for the Morgan One Investigation and asked former DI Steve Hagger whether he had seen such a file during his review. He said that he had no recollection of there having been a policy file for the Morgan One Investigation.<sup>43</sup>

40. The 2000 Murder Review Report stated that, at the time of DCS Douglas Shrubsole's review, the Metropolitan Police had not introduced policy files and decision logs. This was not the case. A copy of D/Supt Douglas Campbell's policy file from the Morgan One Investigation was disclosed to the Panel. However, the Panel has established that the policy file was not on the HOLMES copy of the original Morgan One database. Review of the policy file was necessary to ensure a full understanding, in so far as was possible, of the Morgan One Investigation.

41. The Panel is aware that, following the conclusion of the 2000 Murder Review, two filing cabinets of material relating to the Daniel Morgan case were discovered by the Metropolitan Police. A Situation Report by DCI David Zinzan (the Senior Investigation Officer for the covert Abelard One Investigation), produced after a meeting with DI Steve Hagger in April 2001, stated that this material had subsequently been passed to DI Hagger from the Metropolitan Police solicitors. However, it had not been read by DI Hagger and was not included in the 2000 Murder Review.<sup>44</sup> In interview with the Panel, former DI Hagger stated that he could not recall two filing cabinets being found, nor any material having been sent to him after he had completed his report.

42. It is not possible to ascertain why these two filing cabinets were not seen at the time by DI Steve Hagger, or what the contents were. It is therefore not possible to determine whether all relevant material was disclosed to the 2000 Murder Review.

<sup>43</sup> Panel interview with former DI Steve Hagger, p3, para 25, 31 May 2016.

<sup>44</sup> Situation Report by DCI David Zinzan, MPS040527001, p13, 09 April 2001.

## 5 Findings of the 2000 Murder Review Report

43. The 2000 Murder Review Report stated that ‘[i]nvestigative leads from the original enquiries have been closely examined’.<sup>45</sup> Taking these leads into account, the report made 83 recommendations for future investigation.<sup>46</sup>

### 5.1 Investigative opportunities

44. The 2000 Murder Review Report stated that the key lines of enquiry for a focused reinvestigation could be grouped under four broad headings:

- i. the key suspect, Jonathan Rees;
- ii. key witnesses;
- iii. forensic opportunities; and
- iv. intelligence.

45. A number of recommendations deriving from analysis of the key lines of enquiry were of major significance, for example, recommendations 1 and 6 relating to the covert monitoring of Jonathan Rees, Glenn Vian and Garry Vian. A range of other recommendations deriving from the audit of the documentation created during the Morgan One Investigation were also made by the 2000 Murder Review.<sup>47</sup> No comparable audit is reported as having been conducted on the documentation created during the Hampshire/Police Complaints Authority Investigation (see paragraphs 33-34).

46. The Panel has reviewed all 83 recommendations. The work emanating from these recommendations is covered in the Abelard One/Morgan Two Investigation chapter (see Chapter 6). In this chapter, the Panel has limited its comments to those recommendations which it believes are particularly worthy of assessment.

### 5.2 Key suspect: Jonathan Rees

47. Jonathan Rees was listed in the 2000 Murder Review Report as the only ‘KEY SUSPECT’.<sup>48</sup> Six others were designated ‘KEY WITNESSES’: Garry Vian, Glenn Vian, Margaret Harrison, John Peacock, Sharon Rees and Kevin Lennon (each of whom is further discussed below).<sup>49</sup> Former DS Sidney Fillery, a close contact of Jonathan Rees and his business partner at Southern Investigations (latterly Law & Commercial) after the murder of Daniel Morgan, was not identified in the 2000 Murder Review Report as a person of interest. The report considered DS Fillery’s actions but did not identify him as a suspect or a witness.

48. Introducing Jonathan Rees as the key suspect, the 2000 Murder Review Report stated that ‘[b]oth the Metropolitan and Hampshire Investigations identified John [sic] REES as the prime suspect’, and that ‘[t]he Review Group concurs with those views in that John REES remains the primary suspect of the murder of Daniel MORGAN’.<sup>50</sup>

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45 2000 Murder Review Report, ‘Executive Summary’, MPS020525001, p6, para 2.11, 06 October 2000.

46 2000 Murder Review Report, ‘Summary of Recommendations’, MPS020525001, pp77-85, 06 October 2000.

47 2000 Murder Review Report, MPS020525001, pp40-63, paras 6.10-6.13.22, 06 October 2000.

48 2000 Murder Review Report, MPS020525001, pp28-30, para 6.8, 06 October 2000.

49 2000 Murder Review Report, MPS020525001, pp13-28, paras 6.1-6.7.33, 06 October 2000.

50 2000 Murder Review Report, MPS020525001, p28, para 6.8.1, 06 October 2000.

49. In the next section, entitled '*KEY LINES OF ENQUIRY*', the 2000 Murder Review Report stated the following:

*'The original Metropolitan Police murder investigation, the Hampshire Police Enquiry and indeed the Review Team are all strongly drawn to the view that John [sic] REES was heavily involved in events of 10 March 1987. Whilst mindful of all other avenues, it is clear that a close examination of REES [sic] position is at the head of priorities.'*<sup>51</sup>

50. The 2000 Murder Review Report recommended that a reinvestigation into the murder of Daniel Morgan should be announced publicly, and covert monitoring of Jonathan Rees should take place to gain intelligence in connection with the murder.<sup>52</sup>

51. In a final concluding section, the 2000 Murder Review Report stated that '*[t]he focus of a reinvestigation should be in the securing of sufficient evidence against John [sic] REES to re-institute criminal proceedings against him for murder*'.<sup>53</sup>

52. The 2000 Murder Review Report noted that key lines of enquiry in respect of Jonathan Rees could be grouped under four headings: former police contacts, current co-defendants, family connections, and business.

53. Concluding the section on Jonathan Rees, the 2000 Murder Review Report acknowledged that, despite the fact he had been identified as the key suspect for the murder, unless new, corroborated evidence came to light it would be a '*futile exercise to re-interview him*' and '*a costly exercise for the Metropolitan Police Service to take any overt action against REES*'. However, the report suggested that previous covert monitoring '*resulted in some interesting intelligence being gained*' and that '*[i]t must be worthwhile attempting this tactic again especially if a re investigation is publicly announced*'.<sup>54</sup>

54. The 2000 Murder Review Report also noted that another police enquiry into private detective agencies had identified a '*W J REES*' of '*Southern Security Services*' as a key line of enquiry. The report concluded that '*[i]f research shows this individual identical with John [sic] REES then financial records may show suspicious money movements around the time of the murder*'<sup>55</sup> and recommended that '*W J REES [...] is fully researched and identified*'.<sup>56</sup>

### **5.2.1 Former police contacts of Jonathan Rees**

55. The 2000 Murder Review Report stated that:

*'Southern Investigations without doubt conducted its business in a dubious manner. REES had very close contact with the local police and had a very strong allegiance with DS FILLERY and through that association met other police officers.'*<sup>57</sup>

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51 2000 Murder Review Report, MPS020525001, p31, para 6.9.6, 06 October 2000.

52 2000 Murder Review Report, MPS020525001, p30, para 6.8.16, 06 October 2000.

53 2000 Murder Review Report, MPS020525001, p81, para 10.4, 06 October 2000.

54 2000 Murder Review Report, MPS020525001, p30, para 6.8.15, 06 October 2000.

55 2000 Murder Review Report, MPS020525001, p35, para 6.9.24, 06 October 2000.

56 2000 Murder Review Report, MPS020525001, p50, para 6.12.22, 06 October 2000.

57 2000 Murder Review Report, MPS020525001, p29, para 6.8.10, 06 October 2000.

56. It also noted that:

*'[a]llegations of police involvement in the murder of MORGAN stem from REES's close relationship with DS FILLERY and the participation of FILLERY, [DC Alan] PURVIS and [PC Peter] FOLEY at Belmont Car Auctions'.<sup>58</sup>*

57. DS Sidney Fillery, DC Alan Purvis and PC Peter Foley had 'moonlighted' at Belmont Car Auctions and were arrested during the Morgan One Investigation, in connection with Daniel Morgan's murder (see Chapter 1, The Morgan One Investigation).

58. During the review of messages, actions and other documents from the Morgan One Investigation, the 2000 Murder Review team identified that DS Sidney Fillery had been tasked with determining whether Southern Investigations had partnership insurance,<sup>59</sup> and that Jonathan Rees had stated to him that no such insurance existed. The 2000 Murder Review Report suggested that:

*'[i]n the light of subsequent events, there is clearly the potential for compromise to the Metropolitan Police Service in this and all actions dealt with by FILLERY. If such insurance did in fact exist, another clear motive is apparent for the murder of MORGAN. The fact that FILLERY did not obtain a statement in the negative from REES is also cause for concern, and this line needs reassessment.'<sup>60</sup>*

59. The 2000 Murder Review Report recommended that it would be necessary to ascertain whether such partnership insurance had existed<sup>61</sup> and suggested (rather than recommended) that all enquiries conducted by DS Sidney Fillery into the murder of Daniel Morgan should be reassessed.<sup>62</sup>

60. The 2000 Murder Review Report identified the close relationship between Jonathan Rees and former DS Sidney Fillery and concluded that this necessitated a reassessment of relevant investigative activities carried out by former DS Fillery. This conclusion was justified by the evidence available to the review team and the matter was examined by the Abelard One/Morgan Two Investigation that followed (see Chapter 6). However, the omission of former DS Sidney Fillery from the list of key witnesses in the 2000 Murder Review Report was illogical, given that the review was sufficiently concerned by DS Fillery's involvement in the murder investigation to suggest that all of his actions from when he was part of the investigation be reviewed.

61. At the time of the 2000 Murder Review, all police officers convicted of corruption were being interviewed by the Metropolitan Police Complaints Investigation Bureau. The 2000 Murder Review Report observed that several former police officers who had links to Jonathan Rees were, at the time of the review, serving prison sentences for corruption and other matters.

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58 2000 Murder Review Report, MPS020525001, p29, para 6.8.11, 06 October 2000.

59 Action A153, 'Ascertain if there was "partnership" insurance between MORGAN and REES', MPS013216001, 14 March 1987.

60 2000 Murder Review Report, MPS020525001, p49, para 6.12.15, 06 October 2000.

61 2000 Murder Review Report, MPS020525001, p49, para 6.12.16, 06 October 2000.

62 2000 Murder Review Report, MPS020525001, p49, para 6.12.17, 06 October 2000.

The 2000 Murder Review Report noted that during such post-conviction interviews of former Police Officer E1, former DC Thomas Kingston and former DC Duncan Hanrahan, *'no specific questioning about REES or the MORGAN murder was undertaken'*.<sup>63</sup>

62. The 2000 Murder Review Report recommended that former Police Officer E1 be interviewed about his knowledge of Daniel Morgan's murder, since he had given evidence against others after he was arrested for corruption. He had also made two statements to the Morgan One Investigation, a further statement to the Hampshire/Police Complaints Authority Investigation and *'was in the circle of acquaintances of REES and MORGAN'*. The 2000 Murder Review Report recommended that a new investigation should explore any changes in allegiance to Jonathan Rees, adding that former Police Officer E1's statements to the Morgan One Investigation showed Daniel Morgan in a *'bad light and it may be his position now is that he was used by REES, wittingly or otherwise, to muddy the waters'*.<sup>64</sup>

63. A recommendation was also made that former DC Thomas Kingston be interviewed, as he was engaged in surveillance work for Law & Commercial and had had conversations with both former DS Sidney Fillery and Jonathan Rees about Daniel Morgan's murder, which were captured by the intrusive listening devices deployed during Operation Nigeria/Two Bridges (see Chapter 4, Operation Nigeria/Two Bridges). These conversations demonstrated the willingness of Jonathan Rees and former DS Sidney Fillery to talk to former DC Thomas Kingston in 1999 about Daniel Morgan's murder. The 2000 Murder Review Report stated that, since he was in prison, *'he should be debriefed on all he knows about the murder'*.<sup>65</sup>

64. The 2000 Murder Review Report also recommended that former DC Duncan Hanrahan be interviewed about his knowledge of the murder of Daniel Morgan,<sup>66</sup> as he was *'apparently well known to [James] COOK and [Person P9]'*, who themselves had been linked to the murder.<sup>67</sup> The 2000 Murder Review Report noted that former DC Hanrahan had been *'used by Detective Superintendent CAMPBELL to "befriend" REES and feed various pieces of information'* (see Chapter 1, The Morgan One Investigation),<sup>68,69</sup> and that former DC Hanrahan was the night duty Criminal Investigation Department (CID) officer when Jonathan Rees was allegedly robbed outside his home of the takings from Belmont Car Auctions in 1986 (see Chapter 1, The Morgan One Investigation). The Murder Review Report stated that he *'may now have a view on this that will incriminate REES'*.<sup>70</sup>

65. The 2000 Murder Review Report further stated that Daniel Morgan's presence in the Golden Lion public house on 10 March 1987 *'was for a meeting about financing a Court Order resulting from this alleged robbery, this line needs to be explored'*.<sup>71</sup> Finally, the report stated that a further purpose in seeing former DC Duncan Hanrahan would be to seek corroboration for the statement of 22 January 1999 by Person F11, in which he claimed that he had discussed the murder of Daniel Morgan with former DC Hanrahan, and to establish the nature of former DC Hanrahan's relationships with both James Cook and Person F11.<sup>72</sup>

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63 2000 Murder Review Report, MPS020525001, p49, para 6.9.8, 06 October 2000.

64 2000 Murder Review Report, MPS020525001, p32, para 6.9.10, 06 October 2000.

65 2000 Murder Review Report, MPS020525001, p33, para 6.9.12, 06 October 2000.

66 2000 Murder Review Report, MPS020525001, p33, para 6.9.16, 06 October 2000.

67 2000 Murder Review Report, MPS020525001, p33, para 6.9.14, 06 October 2000.

68 2000 Murder Review Report, MPS020525001, p33, para 6.9.14, 06 October 2000.

69 The Panel is aware that Jonathan Rees and DC Duncan Hanrahan were friends prior to the murder of Daniel Morgan. The suggestion in the 2000 Murder Review Report that DC Hanrahan was used by D/Supt Douglas Campbell to *'befriend'* Jonathan Rees is therefore incorrect. D/Supt Campbell simply used this friendship to the advantage of the Morgan One Investigation.

70 2000 Murder Review Report, MPS020525001, p33, para 6.9.15, 06 October 2000.

71 2000 Murder Review Report, MPS020525001, p33, para 6.9.15, 06 October 2000.

72 2000 Murder Review Report, MPS020525001, p33, para 6.9.15, 06 October 2000.



66. The 2000 Murder Review Report also proposed that consideration be given to interviewing former DS Alec Leighton, former DC Nigel Grayston and a former Police Constable,<sup>73</sup> all previously Metropolitan Police officers who had not been convicted of any offence, but who had connections to Jonathan Rees.<sup>74</sup> The 2000 Murder Review team was not in possession of sufficient information to decide whether there was any benefit to approaching them for interview. However, the 2000 Murder Review Report also stated that their situation should be monitored as the reinvestigation progressed, and an approach considered if the circumstances allowed.

### 5.2.2 Current co-defendants of Jonathan Rees

67. In a brief section regarding Jonathan Rees's co-defendants in the criminal proceedings for conspiracy to pervert the course of justice (James Cook, DC Austin Warnes, David Courtney and Simon James, for detail about which see Chapter 4, Operation Nigeria/Two Bridges), the 2000 Murder Review Report considered approaching Simon James in order to obtain information about Jonathan Rees in relation to the murder of Daniel Morgan. The 2000 Murder Review Report noted that both James Cook and David Courtney were '*professional criminals*', who were '*unlikely to be phased by police attention unless facing a substantial prison term*'. However, it explained that the co-defendant Simon James was not considered a career criminal, and that consideration should be given to identifying steps that could be taken to obtain intelligence and evidence from him relating to the murder.<sup>75</sup>

### 5.2.3 Family and business connections of Jonathan Rees

68. The 2000 Murder Review Report also explored Jonathan Rees's family and business connections, including family links to police forces outside the Metropolitan Police. The report recommended that these family links could be considered as future lines of enquiry<sup>76</sup> (see also 'Key witnesses: Garry Vian and Glenn Vian' and 'Key witness: Sharon Rees (née Vian)' below for more on Jonathan Rees's family connections).

69. The 2000 Murder Review Report recommended that William Newton, former accountant to Southern Investigations, be interviewed regarding the information which he had provided on 06 October 1999 (see Chapter 4, Operation Nigeria/Two Bridges).<sup>77</sup> William Newton had stated that a prison officer had told him that the murder had been a contract killing but had not provided names of the people involved. He went on to say that the husband of a client '*stated that the murder was a contract killing ordered and paid for by Jonathan REES over "woman trouble" with MORGAN*'. In addition, he said that the husband named the driver of the car (from the scene of the murder) as '*Jimmy GREEN*'.<sup>78</sup> The police officer conducting the interview believed that William Newton was talking about James ('Jimmy') Cook when he referred to '*Jimmy GREEN*'.<sup>79</sup>

## 5.3 Key witnesses: Garry Vian and Glenn Vian

70. Garry Vian and Glenn Vian had been arrested on 03 April 1987 on suspicion of the murder of Daniel Morgan. The 2000 Murder Review Report noted that, when interviewed by the Morgan One Investigation, both men had declined to make any comment. Furthermore, neither

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73 Anonymity Policy, Daniel Morgan Independent Panel, <https://www.danielmorganpanel.independent.gov.uk/procedures/anonymity-policy/>.

74 2000 Murder Review Report, MPS020525001, p34, para 6.9.17, 06 October 2000.

75 2000 Murder Review Report, MPS020525001, pp34-35, paras 6.9.18-6.9.21, 06 October 2000.

76 2000 Murder Review Report, MPS020525001, p35, paras 6.9.22-6.9.23, 06 October 2000.

77 2000 Murder Review Report, MPS020525001, p39, para 6.9.46, 06 October 2000.

78 Information report, MPS104504001, p72, 06 October 1999, shows that 'Jimmy GREEN' was one of James Cook's aliases.

79 Information report, MPS104504001, pp71-72, 06 October 1999.

had been called to give evidence at the Inquest. The 2000 Murder Review Report noted that *'[t]his situation left both the original Enquiry Team and the Hampshire investigation with little information to progress the enquiry, other than intelligence from other sources'*.<sup>80</sup>

71. In demonstrating the links between Glenn Vian and Garry Vian and their brother-in-law Jonathan Rees, the 2000 Murder Review Report stated that *'[i]t is apparent that it was not unusual for John [sic] REES to employ his brother-in-laws [sic] on a fairly regular basis'*,<sup>81</sup> and that Jonathan Rees had employed both men, along with others, to act as security guards at Belmont Car Auctions on previous occasions.<sup>82</sup> In addition, the 2000 Murder Review Report stated that both men claimed they were *'with REES on 18 March 1986'*,<sup>83</sup> shortly before he was allegedly robbed of £18,280.62.<sup>84</sup>

72. The 2000 Murder Review Report concluded that *'[i]t is clear from current intelligence available to the Review Group that Glen [sic] and Gary [sic] VIAN are still strongly associated with John [sic] REES'*<sup>85</sup> and that they *'hold information regarding the events around the murder of Daniel MORGAN'*.<sup>86</sup> The 2000 Murder Review Report also noted that, in recent intelligence reports, Glenn Vian had again been named as the killer of Daniel Morgan,<sup>87</sup> and the report suggested that both Vian brothers were *'worthy [of] covert targeting to identify their current criminal activities and that of their associates, to obtain levers that could be used to gain evidence against the killer/s of MORGAN'*.<sup>88</sup>

73. The 2000 Murder Review Report's summary of the information relating to Garry Vian and Glenn Vian was both accurate and balanced. The recommendation for the covert surveillance of Garry Vian and Glenn Vian was justified.

#### 5.4 Key witness: Margaret Harrison

74. The 2000 Murder Review Report stated that Margaret Harrison, who worked at a local estate agent's office, had the potential to be a key witness, by virtue of her alleged close relationships with both Daniel Morgan and Jonathan Rees (see Chapter 1, The Morgan One Investigation; and Chapter 3, The Hampshire/Police Complaints Authority Investigation). The report described the evidence that Margaret Harrison gave to the Morgan One Investigation, including Daniel Morgan's movements on the day he died, and the nature of her relationships with both Daniel Morgan and Jonathan Rees.<sup>89</sup>

75. The 2000 Murder Review Report noted that Margaret Harrison's evidence regarding her relationships with Daniel Morgan and Jonathan Rees had changed over the years: Margaret Harrison had since admitted wrongly denying her relationship with Jonathan Rees to the original Morgan One Investigation and at the Inquest.<sup>90</sup> The report noted that the Hampshire/

80 2000 Murder Review Report, MPS020525001, p13, para 6.2.4, 06 October 2000.

81 2000 Murder Review Report, MPS020525001, p13, para 6.2.6, 06 October 2000.

82 2000 Murder Review Report, MPS020525001, p14, para 6.3, 06 October 2000.

83 2000 Murder Review Report, MPS020525001, p14, para 6.3, 06 October 2000.

84 2000 Murder Review Report, MPS020525001, p14, para 6.3, 06 October 2000.

85 2000 Murder Review Report, MPS020525001, p14, para 6.3.1, 06 October 2000.

86 2000 Murder Review Report, MPS020525001, p14, para 6.3.2, 06 October 2000.

87 2000 Murder Review Report, MPS020525001, p14, para 6.3.2, 06 October 2000.

88 2000 Murder Review Report, MPS020525001, p14, para 6.3.2, 06 October 2000.

89 2000 Murder Review Report, MPS020525001, pp14-17, paras 6.4.1-6.4.15, 06 October 2000.

90 2000 Murder Review Report, MPS020525001, pp15-16, para 6.4.10, 06 October 2000.

Police Complaints Authority Investigation team believed that Margaret Harrison and Jonathan Rees were involved in a relationship while Daniel Morgan was still alive, but this could not be corroborated.<sup>91</sup>

76. The 2000 Murder Review Report concluded that the Morgan One and Hampshire/Police Complaints Authority investigations believed that Margaret Harrison was not being '*entirely open with them regarding her relationship*' with Jonathan Rees.<sup>92</sup> The report concluded that, while Margaret Harrison had been willing to co-operate with and assist both previous investigation teams, the overriding factor was that '*her loyalty was undoubtedly to John [sic] REES and she was guarded when questioned in relation to him*'.<sup>93</sup> Intelligence available at the time of the report indicated that Margaret Harrison was still associated with Jonathan Rees, and for this reason the report concluded that any attempt to re-interview her would be a futile exercise.<sup>94</sup>

77. However, the 2000 Murder Review Report suggested that, should intelligence be received that Jonathan Rees was having an affair with another woman, consideration should be given to approaching Margaret Harrison in case she might be forthcoming with new evidence.<sup>95</sup>

### 5.5 Key witness: John Peacock

78. The 2000 Murder Review Report stated that John Peacock had been employed by Southern Investigations between 1986 and January 1987, both as a security guard at Belmont Car Auctions until March 1986 and, later, as a process server, occasionally working with Daniel Morgan. He had given a number of statements and verbal accounts to the Morgan One Investigation, as well as oral evidence at the Inquest, much of which related to Daniel Morgan and Jonathan Rees, and the individuals linked to them.

79. When giving evidence at the Inquest, John Peacock had stated that he did not know any of the other persons present at Belmont Car Auctions apart from Jonathan Rees and Glenn Vian.<sup>96</sup> The 2000 Murder Review Report noted that this contradicted the statement John Peacock had made prior to the Inquest, when he stated that one of the men was DS Sidney Fillery.<sup>97</sup> The 2000 Murder Review Report concluded that '*[i]t is clear that PEACOCK is being deliberately evasive about the other persons present at the auctions*'.<sup>98</sup>

80. Furthermore, the 2000 Murder Review Report noted John Peacock's '*impression was that REES and MORGAN got on well but had their ups and downs*' and that he was '*unsure whether there were any problems between them concerning the business*'.<sup>99</sup>

81. The 2000 Murder Review Report also considered the evidence given by John Peacock regarding Margaret Harrison. It noted that his statements were '*very loose and non-committal concerning the relationship between both REES and MORGAN, and concerning Margaret*

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91 2000 Murder Review Report, MPS020525001, p16, para 6.4.11, 06 October 2000.

92 2000 Murder Review Report, MPS020525001, p16, para 6.4.14, 06 October 2000.

93 2000 Murder Review Report, MPS020525001, p16, para 6.4.14, 06 October 2000.

94 2000 Murder Review Report, MPS020525001, p16, para 6.4.14, 06 October 2000.

95 2000 Murder Review Report, MPS020525001, p16, para 6.4.14, 06 October 2000.

96 Transcript of Inquest into the death of Daniel Morgan: notes of proceedings for the first day, INT000001001, p61, 11 April 1988.

97 Witness statement of John Peacock, MPS010540001, p2, 24 September 1987.

98 2000 Murder Review Report, MPS020525001, p18, para 6.5.9, 06 October 2000.

99 2000 Murder Review Report, MPS020525001, p18, para 6.5.5, 06 October 2000.



*HARRISON*',<sup>100</sup> and that John Peacock had denied 'any knowledge of a personal relationship between REES and HARRISON'<sup>101</sup> and had later said he 'did not realise REES was having an affair with HARRISON until after MORGAN was murdered'.<sup>102</sup>

82. The 2000 Murder Review Report concluded that it was clear that John Peacock had an allegiance to Jonathan Rees, and that '[t]here are some reservations concerning his accounts, for example failing to recall the names of his colleagues whom he worked alongside for some four to six weeks at the Belmont Car Auctions'.<sup>103</sup> It recommended that the 'current position of PEACOCK is assessed'.<sup>104</sup>

## 5.6 Key witness: Sharon Rees (née Vian)

83. The 2000 Murder Review Report stated that, at the time of the murder, Sharon Rees was both the wife of Jonathan Rees and the sister of Glenn Vian and Garry Vian, all three of whom had been suspected of having an involvement in Daniel Morgan's murder.<sup>105</sup>

84. The 2000 Murder Review Report noted that, in statements provided to the Morgan One Investigation, Sharon Rees gave evidence to clarify the telephone conversations she had had with her husband, Jonathan Rees, on 10 March 1987, stating that she only received one call from him. This directly contradicted the account of Jonathan Rees.<sup>106</sup>

85. The 2000 Murder Review Report also noted that Sharon Rees had not attended the Inquest. When giving evidence, Jonathan Rees 'stated his wife Sharon, had not attended the inquest due to constant media harassment' and that 'his wife was depressed' and was seeing a doctor.<sup>107,108</sup> The report stated that Dr Mary Watton, who had not been Sharon Rees's doctor for the previous three years but had attended her on this occasion, gave evidence to the Inquest that 'Sharon REES was not receiving any medical treatment for her condition, and this was the first examination she had received'.<sup>109</sup> The 2000 Murder Review Report noted this was questioned by the Court as being in contradiction to Jonathan Rees's evidence,<sup>110,111</sup> and that despite this, Sharon Rees was excused from attending the Inquest based on the testimony of Dr Watton, who had had only one consultation with Sharon Rees (see Chapter 2, Inquest).<sup>112</sup>

86. The 2000 Murder Review Report suggested that, due to her family connections with Jonathan Rees, Glenn Vian and Garry Vian, Sharon Rees may have been unwilling to tell the investigation teams all she knew. The 2000 Murder Review Report concluded that '[h]er prolonged absence at the time of the Inquest seems to drive home, the fact that she was frightened and reluctant to attend and face the subsequent cross-examination of the Coroners Court'.<sup>113</sup>

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100 2000 Murder Review Report, MPS020525001, p19, para 6.5.15, 06 October 2000.

101 2000 Murder Review Report, MPS020525001, p18, para 6.5.6, 06 October 2000.

102 2000 Murder Review Report, MPS020525001, p19, para 6.5.14, 06 October 2000.

103 2000 Murder Review Report, MPS020525001, p19, para 6.5.15, 06 October 2000.

104 2000 Murder Review Report, MPS020525001, p19, paras 6.5.15-6.5.16, 06 October 2000.

105 2000 Murder Review Report, MPS020525001, p22, para 6.6.17, 06 October 2000.

106 2000 Murder Review Report, MPS020525001, p20, para 6.6.6, 06 October 2000.

107 2000 Murder Review Report, MPS020525001, p21, para 6.6.10, 06 October 2000.

108 Transcript of Inquest into the death of Daniel Morgan: notes of proceedings for the third day, INT000003001, p55, 13 April 1988.

109 2000 Murder Review Report, MPS020525001, p21, para 6.6.11, 06 October 2000.

110 2000 Murder Review Report, MPS020525001, p21, para 6.6.11, 06 October 2000.

111 Transcript of Inquest into the death of Daniel Morgan: notes of proceedings for the eighth day, INT000008001, pp2-5, 24 April 1988.

112 2000 Murder Review Report, MPS020525001, p21, para 6.6.11, 06 October 2000.

113 2000 Murder Review Report, MPS020525001, p22, paras 6.6.16-6.6.17, 06 October 2000.

87. The 2000 Murder Review Report recommended that any new investigation should assess Sharon Rees and her current relationship with Jonathan Rees to see whether she could provide further information on the murder of Daniel Morgan.<sup>114</sup> It also noted that at the time of the report in 2000, intelligence suggested that Sharon Rees and Jonathan Rees were living at the same address.<sup>115</sup>

88. The 2000 Murder Review Report concluded that Sharon Rees *'undoubtedly holds vital information regarding the movements of her husband on the night of 10 March 1987'*.<sup>116</sup>

## 5.7 Key witness: Kevin Lennon

89. DI Steve Hagger dedicated a significant portion of his report, 33 paragraphs, to the evidence given by Kevin Lennon, a former bookkeeper who had worked at Southern Investigations.<sup>117</sup> DI Hagger described the contents of the statements made by Kevin Lennon between April 1987 and September 1987, detailing that Kevin Lennon had stated that Jonathan Rees *'despised'* Daniel Morgan and had asked Kevin Lennon to find someone to kill him, and that Jonathan Rees was *'infatuated'* with Margaret Harrison.<sup>118</sup> The 2000 Murder Review Report also outlined the various officers' reports concerning intelligence provided by Kevin Lennon over the years. These reports included Kevin Lennon's 1988 disclosure that he had actually approached a *'man'* on behalf of Jonathan Rees and proposed paying him between £5,000 and £7,000 for the murder of Daniel Morgan, but that this had not transpired as Jonathan Rees had later said he had arranged for someone from the Catford Police Station to do it for only £1,000.<sup>119</sup>

90. The 2000 Murder Review Report's assessment of whether the evidence given by Kevin Lennon incriminated Jonathan Rees and others in the murder of Daniel Morgan included:

- i. the fact that he had a strong motive for providing the initial evidence in that he had received a suspended sentence for a previous serious fraud offence;<sup>120</sup>
- ii. that much of his evidence remained uncorroborated;<sup>121</sup> and
- iii. that DCS Alan Wheeler and DCI Paul Blaker of the Hampshire/Police Complaints Authority Investigation *'were both of the opinion that his credibility was quickly diminishing'*.<sup>122</sup>

91. The 2000 Murder Review Report concluded that Kevin Lennon was *'a man of dubious character, with varying motives for assisting the enquiry teams'*,<sup>123</sup> that his evidence at the Inquest about refusing to seek an individual to murder Daniel Morgan<sup>124</sup> was contradicted by his later evidence to the Hampshire/Police Complaints Authority Investigation,<sup>125</sup> and that the manner in which he added further evidence *'completely discredits him as a witness'*.<sup>126</sup>

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114 2000 Murder Review Report, MPS020525001, p22, para 6.6.18, 06 October 2000.

115 2000 Murder Review Report, MPS020525001, p22, para 6.6.16, 06 October 2000.

116 2000 Murder Review Report, MPS020525001, p22, para 6.6.16, 06 October 2000.

117 2000 Murder Review Report, MPS020525001, pp22-28, 06 October 2000.

118 2000 Murder Review Report, MPS020525001, pp23-24, 06 October 2000.

119 2000 Murder Review Report, MPS020525001, p25, para 6.7.15, 06 October 2000.

120 2000 Murder Review Report, MPS020525001, p24, para 6.7.10, 06 October 2000.

121 2000 Murder Review Report, MPS020525001, p28, para 6.7.29, 06 October 2000.

122 2000 Murder Review Report, MPS020525001, p25, para 6.7.16, 06 October 2000.

123 2000 Murder Review Report, MPS020525001, p28, para 6.7.32, 06 October 2000.

124 2000 Murder Review Report, MPS020525001, p26, para 6.7.22, 06 October 2000.

125 2000 Murder Review Report, MPS020525001, p27, para 6.7.23, 06 October 2000.

126 2000 Murder Review Report, MPS020525001, p28, para 6.7.32, 06 October 2000.

92. Furthermore, the 2000 Murder Review Report concluded that Kevin Lennon's initial account in April 1987 was '*non-committal*' and that, by September 1987, when he provided the second account alleging that Jonathan Rees had asked him to find someone to kill Daniel Morgan, he '*must have appreciated that if [he] gave useful information to the Investigation Team, a text may be offered to him at his forthcoming trial*' (a 'text' in this context was information provided by police to a judge stating that a defendant had assisted them in a police investigation). The 2000 Murder Review Report continued that '*[t]his of course is exactly what happened*'.<sup>127</sup> The report recommended that '*no action be taken to interview Lennon at this stage*'.<sup>128</sup>

93. The complexity of the situation with reference to Kevin Lennon was such that the 2000 Murder Review Report's recommendation, that no further action be taken, was not justified. A recommendation should have been made for further investigation of the evidence which Kevin Lennon had provided, to establish whether any corroborative evidence could be identified.

## 5.8 Forensic opportunities

94. The 2000 Murder Review sought to identify further forensic opportunities and therefore searched for the physical and documentary exhibits resulting from both the Morgan One and Hampshire/Police Complaints Authority investigations.

### 5.8.1 Morgan One exhibits

95. Significant problems were identified in relation to exhibits seized during the Morgan One Investigation. The 2000 Murder Review Report noted that, while some exhibits from the Morgan One Investigation were retrieved during the 2000 Murder Review, the exhibits were '*by no means complete*' and there were '*a number of difficulties concerning the exhibits*'.<sup>129</sup>

96. The 2000 Murder Review Report stated that while the original Morgan One Investigation Exhibit Books could not be located, a photocopy of the Exhibit Books was available, which showed that the '*vast majority*'<sup>130</sup> of exhibits had been restored to their owners.

97. Of the exhibits which were not shown as having been returned to their owners, the 2000 Murder Review team located 42 of them. In an appendix to the report, the 2000 Murder Review team recorded the condition of each of the retrieved exhibits. The appendix confirmed that:

- i. in 16 instances, a description of the state of the exhibit was not provided;
- ii. in nine instances, descriptions of '*bag open*', '*open*' or '*not sealed*' were provided (see Table 1 below), suggesting that these items were not recovered in a condition that would enable the Metropolitan Police to verify either that the exhibits had not been contaminated, or that there had been compliance with exhibit-handling requirements;
- iii. in nine instances, descriptions of '*bag OK*', '*jar sealed*' and '*sealed box*' were provided, suggesting that these items may have been protected from contamination; and

127 2000 Murder Review Report, MPS020525001, p27, paras 6.7.27-6.7.28, 06 October 2000.

128 2000 Murder Review Report, MPS020525001, p28, para 6.7.33, 06 October 2000.

129 2000 Murder Review Report, MPS020525001, p75, para 8.1.1, 06 October 2000.

130 2000 Murder Review Report, MPS020525001, p75, para 8.1.2, 06 October 2000.

- iv. in eight instances, descriptions were provided which gave no indication of the condition of the items, for example ‘*plastic bag*’ and ‘*swab case*’.<sup>131</sup>

98. The following table, prepared for this chapter, lists those items where the condition was reported as ‘*bag open*’, ‘*open*’ or ‘*not sealed*’.<sup>132</sup> No further comment was made about the condition in which the exhibits were found.

**Table 1: Exhibits described as ‘*Bag open*’, ‘*Open*’ or ‘*Not sealed*’**

Exhibit number	Description of item	Condition
CB/51	One jumper	‘ <i>Bag open</i> ’
KNC/1	Vehicle Service Book	‘ <i>Open</i> ’
CB/1 A	Shoe	‘ <i>Bag open</i> ’
CB/1 B	Shoe	‘ <i>Bag open</i> ’
CB/6	Jacket	‘ <i>Bag open</i> ’
CB/7	Shirt	‘ <i>Bag open</i> ’
KD/27	Trousers	‘ <i>Bag open</i> ’
GF/5	Two packets of crisps	‘ <i>Not sealed</i> ’
PL/1	Lightweight blue jacket	‘ <i>Bag open</i> ’

99. The Panel notes that the shoes (CB/1 A and CB/1 B), the jacket (CB/6) and the shirt (CB/7) were those of Daniel Morgan. The jumper (CB/51) and the lightweight blue jacket (PL/1) belonged to two different suspects, who were stated to have been eliminated from the Morgan One Investigation. There is evidence to suggest there was some confusion in relation to the ownership of at least one exhibit. In various records of the exhibits, the trousers (KD/27) are stated as being owned by Garry Vian and Glenn Vian. It has not been possible to establish to which of the Vian brothers these trousers (KD/27) belonged.<sup>133,134,135</sup>

100. The 2000 Murder Review Report noted that:

*‘[c]rucially the murder weapon and some items of the victims [sic] clothing were retrieved from Eltham Police Station. They had apparently been stored until quite recently at Solicitors Branch, Wellington House. The review team could not find any documentary continuity for the exhibits although original labelling and seals are intact on many items [...]. Enquiries at Prisoners Property Store reveal that only the car belonging to MORGAN and its contents were ever submitted to the store. All that now remains in Prisoners Property Store is the twelve items that were in the car.’<sup>136</sup>*

101. In addition to those exhibits retrieved, the 2000 Murder Review Report listed 61 exhibits which were not shown as having been restored to their owners, and which could not be located.<sup>137</sup> The list included both documentary and physical exhibits from the Morgan One

131 2000 Murder Review Report, Appendix F: Exhibit Issues, MPS054329001, p2, 06 October 2000.

132 2000 Murder Review Report, Appendix F: Exhibit Issues, MPS054329001, p2, 06 October 2000.

133 2000 Murder Review Report, MPS020525001, p75, para 8.1.3, 06 October 2000.

134 List of exhibits taken from victim, MPS011614001, undated.

135 List of exhibits, MPS079934001, undated.

136 2000 Murder Review Report, MPS020525001, p75, para 8.1.3, 06 October 2000.

137 2000 Murder Review Report, Appendix F: Exhibit Issues, MPS054329001, pp3-4, 06 October 2000.

Investigation, for example, interview transcripts and tapes arising from Garry Vian's, Glenn Vian's and Jonathan Rees's post-arrest interviews. It also included Daniel Morgan's job book from DJM Investigations (the private investigation company that Daniel Morgan had run before becoming a partner at Southern Investigations); Southern Investigations' diaries belonging to Daniel Morgan and Jonathan Rees; and computer printouts of the car phone bills of Daniel Morgan and Jonathan Rees.<sup>138</sup>

102. The responsibility for the secure handling of the Morgan One exhibits rested at various times with the Metropolitan Police Forensic Laboratory, the Forensic Science Service and the Morgan One and Hampshire/Police Complaints Authority investigations. It is not possible from the records to identify who was responsible for the condition in which the Metropolitan Police exhibits were found by the 2000 Murder Review team. It is clear that there was no documentary continuity for a number of important exhibits, including the murder weapon, which would have led to challenge had any attempt been made to produce the exhibits in question as evidence in any trial.

### 5.8.2 Hampshire/Police Complaints Authority exhibits

103. The Hampshire/Police Complaints Authority Investigation produced 349 exhibits,<sup>139</sup> of which 129 were retrieved by the 2000 Murder Review.<sup>140</sup> The 2000 Murder Review Report noted in particular that the boxes for exhibits 32 to 150 were not located by the 2000 Murder Review.<sup>141</sup> No details of these exhibits were provided. The report made no comment on the Hampshire/Police Complaints Authority exhibits retrieved.

104. One of the most important documents resulting from the Hampshire/Police Complaints Authority Investigation was DCI Terence Farley's report on the forensic aspects of the Morgan One Investigation (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). DCI Farley's report would have been relevant to the 2000 Murder Review as it identified forensic opportunities that were missed in the Morgan One Investigation. DCI Farley had concluded that:

*'forensically the case was not handled at all professionally and there was obvious neglect probably through either ignorance or incompetence and fragmented involvement. There was an obvious lack of direction, co-ordination, management and supervision. The initial effort must be described as pathetic.'*<sup>142</sup>

105. On 19 January 1989, DCI Terence Farley's report had been submitted to DCS Alan Wheeler, who was conducting the Hampshire/Police Complaints Authority Investigation.<sup>143</sup> DCI Farley included in his report the details of an informal discussion he had had with D/Supt Douglas Campbell, the officer in charge of the Morgan One Investigation, on 26 October 1988.

138 2000 Murder Review Report, Appendix F: Exhibit Issues, MPS054329001, pp3-4, 06 October 2000.

139 Receipt of Operation Drake exhibits, MPS026282001, pp2-9, 1 December 1989.

140 2000 Murder Review Report, Appendix F: Exhibit Issues, MPS054329001, p5, 06 October 2000.

141 2000 Murder Review Report, MPS020525001, p75, para 8.1.2, 06 October 2000.

142 Forensic Report by DCI Terence Farley, MPS005270001, p23, 19 January 1989.

143 Forensic Report by DCI Terence Farley, MPS005270001, p1, 19 January 1989.



DCI Farley then offered to elaborate on his opinion of D/Supt Campbell, as well as certain other matters connected to the Morgan One Investigation (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).<sup>144</sup>

106. The report by DCI Terence Farley had been registered on the Hampshire/Police Complaints Authority HOLMES account on 08 March 1989, but the report was never typed onto the police computer system. In order to read the report, DI Steve Hagger would have had to access a hard copy of the document in the Hampshire/Police Complaints Authority material. There was no reference in the 2000 Murder Review Report to the forensics report completed by former DCI Farley in January 1989, and former DI Hagger had no memory of reading that report when asked about it by the Panel.

107. Given the significance of DI Terence Farley's report and his offer within it to provide further specific information, including, '*the known and suspected criminal involvement by police officers*' and '*unwise criminal and domestic associations by Metropolitan police officers revealed during the course of the original enquiry*', together with the fact that DI Steve Hagger had no memory of seeing it, the Panel concludes that DI Hagger did not see this important document.<sup>145</sup> The existence of this document was recorded on the Hampshire database and, given it existed, DI Hagger should have asked for it.

108. The Panel has found no evidence that a thorough examination of the Hampshire/Police Complaints Authority Investigation exhibits, including an investigation into those that were missing, was carried out by the 2000 Murder Review. Had this been done, among other items, Jonathan Rees's 1987 *Letts* desk diary could have been identified as an item which warranted further examination. As noted in the Hampshire/Police Complaints Authority chapter (see Chapter 3), this was potentially a very important document which had not been adequately dealt with by either the Morgan One or the Hampshire/Police Complaints Authority investigations.

## 5.9 Forensic submissions

109. The 2000 Murder Review Report stated that a case conference was held with the forensic scientist from the Morgan One Investigation, Phillip Toates, and with a member of the Serious Crimes Section. Six of the items recovered by the 2000 Murder Review team were then submitted for forensic examination. These were: the bank notes found on Daniel Morgan's body at the scene of his murder; Daniel Morgan's shoes, trousers and shirt; the axe used to murder Daniel Morgan; and tapings from the axe.<sup>146</sup> They were submitted to ascertain whether advances in fingerprinting techniques, and focused examination of blood-staining on Daniel Morgan's trousers and the bank notes found in his pocket, might provide evidence.<sup>147</sup>

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144 Forensic Report by DCI Terence Farley, MPS005270001, p19, 19 January 1989.

145 Forensic Report by DCI Terence Farley, MPS005270001, pp19-20, 19 January 1989.

146 2000 Murder Review Report, MPS020525001, p76, para 8.2.1, 06 October 2000.

147 2000 Murder Review Report, MPS020525001, p76, para 8.2.1, 06 October 2000.

110. Despite the fact that various items of clothing and other items had been seized during the Hampshire/Police Complaints Authority Investigation, some of which were contaminated by blood (see Chapter 3, The Hampshire/Police Complaints Authority Investigation), no such items from that investigation were submitted for forensic examination by the 2000 Murder Review team, nor were they referred to in the 2000 Murder Review Report.

111. The forensic testing was not completed until 2001, after the completion of the 2000 Murder Review Report, and therefore no mention of the results was made in the report.<sup>148,149</sup> The Panel covers the outcome of the forensic testing conducted by Philip Toates in the next chapter (see Chapter 6, The Abelard One/Morgan Two Investigation).

112. The list of Hampshire/Police Complaints Authority exhibits retrieved by the 2000 Murder Review contains no information other than the exhibit number, in contrast to the list of 42 exhibits from the Morgan One Investigation, which contains the exhibit number and a description of the item and its condition. Therefore, there is no evidence that these exhibits were examined in order to identify further investigative opportunities. There is no specific reference in the 2000 Murder Review Report to the various items of clothing and other items seized during the Hampshire/Police Complaints Authority Investigation, and no attempt was made to identify further investigative opportunities which might have arisen from the examination of such exhibits.

## 5.10 Intelligence

113. The 2000 Murder Review also examined intelligence documentation. This included documentation available to the Morgan One and Hampshire/Police Complaints Authority investigations, and additional intelligence gained as a result of Operation Nigeria/Two Bridges.

### 5.10.1 Telephone intelligence

114. The 2000 Murder Review Report noted that, while the available telephone records had been examined by the Morgan One and Hampshire/Police Complaints Authority investigations, research undertaken by the 2000 Murder Review indicated that there may have been a possibility of gaining additional intelligence. However, it was subsequently established that telephone company records were only retained for seven years, and therefore any records which were not obtained by the original investigation had since been routinely destroyed.<sup>150</sup> As a consequence, the 2000 Murder Review Report concluded that '*[t]here is no potential for telephone analysis in this case and the lack of complete records may cause evidential problems during a prosecution*'.<sup>151</sup>

### 5.10.2 The Operation Nigeria/Two Bridges transcripts

115. The 2000 Murder Review Report noted that the review had been supplied with covert listening material by the Complaints Investigation Bureau 3 (CIB3), which had overseen Operation Nigeria/Two Bridges.<sup>152</sup> This material comprised 26 tape transcripts from Operation

148 Forensics report from Philip Toates to DI Steve Hagger, MPS071144001, pp1-3, 09 March 2001.

149 Forensics report from Philip Toates to DCI David Zinzan, MPS071145001, p1, 15 June 2001.

150 2000 Murder Review Report, MPS020525001, p64, para 7.3, 06 October 2000.

151 2000 Murder Review Report, MPS020525001, p64, para 7.4, 06 October 2000.

152 2000 Murder Review Report, MPS020525001, p64, para 7.5, 06 October 2000.

Nigeria/Two Bridges, officers' information reports, witness statements and police actions. It noted that the tape transcripts, which covered the period from April 1999 to August 1999, twice contained direct reference to the murder of Daniel Morgan. The first reference was to denials by Jonathan Rees, following the publication of the *Daily Telegraph* article (see Chapter 4, Operation Nigeria/Two Bridges), that he was involved in the murder. The second referred to comments, thought to be by Glenn Vian, that, 'we got rid of the car. I mean they... to that car, that car's not there anymore anyway there's no, it's all hearsay...'. The 2000 Murder Review Report noted that '[t]he record of this conversation is not complete but could be construed as an admission, to a part in the murder. On the other hand the speaker may be speaking of an unrelated issue.'<sup>153</sup> As well as these particular transcripts, there were several others summarised in an appendix to the report, because of their potential relevance to the Daniel Morgan murder investigation.<sup>154</sup> However, further to analysis of all of these transcripts, the report concluded the following:

*'It is the assessment of the Review Group that based upon the tape transcript material passed to them by CIB, no useful evidence has been obtained concerning the murder of MORGAN from that product.'*<sup>155</sup>

### 5.10.3 Further intelligence provided to the 2000 Murder Review

116. The 2000 Murder Review Report stated that during Operation Nigeria/Two Bridges, information was provided by William Newton and Person F11, alleging that Jonathan Rees had paid for Daniel Morgan to be murdered (see above, paragraph 69; see also Chapter 4, Operation Nigeria/Two Bridges). The report also stated that William Newton named James Cook as having been involved in the murder, while Person F11 named James Cook and 'Glen VINES' and said that after the event the car used in the murder had been hidden in a garage owned by an associate of James Cook, Person P9, until it was destroyed.<sup>156</sup> Person F11 had been charged on 18 September 1998 with conspiracy to murder James Cook. The 2000 Murder Review Report recommended that both witnesses be re-interviewed regarding their knowledge of the case.<sup>157,158</sup> The report concluded:

*'[a]s a result of a meeting held between the Review Group and CIB3 it became apparent there is currently a feud between Jimmy COOK, [Person F11] and [Person P9]. Nevertheless the statement provided by [Person F11] naming Glen [sic] VIAN and Jimmy COOK is impressive and several new lines of enquiry have been recommended.'*<sup>159</sup>

## 6 Family liaison

117. In interview with the Panel, former DI Steve Hagger said that he had had no contact with members of Daniel Morgan's family.<sup>160</sup>

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153 2000 Murder Review Report, MPS020525001, p65, 06 October 2000.

154 2000 Murder Review Report, Appendix C: Summary of Tape Transcripts 'Operation Florida', MPS054326001, undated.

155 2000 Murder Review Report, MPS020525001, p65, para 7.11, 06 October 2000.

156 Witness statement of Person F11, MPS046816001, p2, 22 January 1999.

157 2000 Murder Review Report, MPS020525001, p37, para 6.9.35, 06 October 2000.

158 2000 Murder Review Report, MPS020525001, p39, para 6.9.46, 06 October 2000.

159 2000 Murder Review Report, MPS020525001, p73, para 7.72, 06 October 2000.

160 Panel interview with former DI Steve Hagger, p3, para 26, 31 May 2016.



118. Nevertheless, the 2000 Murder Review assessed liaison with members of Daniel Morgan's family during the Morgan One Investigation and Operation Nigeria/Two Bridges but did not do the same for the Hampshire/Police Complaints Authority Investigation. In relation to the Morgan One Investigation, the 2000 Murder Review Report stated:

*'In 1987 there were no formal family liaison policies in place, no formal documentary logs, and contact with the family was less structured and more focused on the needs of the investigation rather than on the requirements of the family. Good relationships have been formed however, in particular with Iris MORGAN, who is believed to be happy with the support she received from police [...]. Alistair [sic] MORGAN on the other hand has been driven by the murder of his brother and has been critical of the investigations.'*<sup>161</sup>

119. In reference to the family liaison provided during Operation Nigeria/Two Bridges, the 2000 Murder Review Report stated that:

*'[i]ntelligence gained during the course of their enquiries led to CIB(3) [Criminal Investigation Bureau 3] making contact with the relatives of Daniel MORGAN. CIB officers have now found themselves in the position of being de facto "family liaison officers".'*<sup>162</sup>

*'CIB have been in regular recent contact with Alistair [sic] MORGAN who takes the stance that corruption within both the Metropolitan Police Investigation and the subsequent Hampshire Investigation has meant no one has been convicted of his brother's murder. This is articulated in various Press articles sourced to Alistair [sic] MORGAN. He believes that Sidney FILLERY is implicated in the murder and has concerns around why he has not been charged.'*<sup>163</sup>

120. The 2000 Murder Review Report also noted:

*'Alistair [sic] MORGAN is currently in the process of instituting civil proceedings against Hampshire Constabulary with a view to obtaining their original report. He has regular contact with DAC [Roy] CLARK and his staff and has met personally with him.'*<sup>164</sup>

121. The 2000 Murder Review Report stated that *'[t]he Review Group have NOT had the opportunity to view the Family Liaison Logs [...] in this case [Operation Nigeria/Two Bridges]'*<sup>165</sup> (emphasis in original). No explanation was provided for this omission in documentation provided to the Panel.

122. The 2000 Murder Review Report stated that *'CIB(3) are not investigating the murder of Daniel John MORGAN. They are proactively seeking intelligence regarding other issues. DCI [Barry] NICHOLSON is fully aware that officers from within his Unit should not be performing the role of Family Liaison, but circumstances have led them to this situation.'* The report further noted that DS Richard Oliver and the Detective Constable were *'experienced Detective Officers but neither of them has received the accredited Family Liaison Course'*. Finally, the report stated that *'it must be borne in mind that Alistair [sic] MORGAN has concerns regarding corruption and conspiracy in relation to the investigation of his brother's murder'*. For this reason, the report recommended that *'the assessment level of this case in respect of contact with Alistair [sic]*

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161 2000 Murder Review Report, MPS020525001, p77, para 9.3, 06 October 2000.

162 2000 Murder Review Report, MPS020525001, p77, para 9.4, 06 October 2000.

163 2000 Murder Review Report, MPS020525001, pp77-78, para 9.6, 06 October 2000.

164 2000 Murder Review Report, MPS020525001, p78, para 9.7, 06 October 2000.

165 2000 Murder Review Report, MPS020525001, p78, para 9.11, 06 October 2000.

*MORGAN be raised to level 2*'. Level 1 reflected an assessment that '*contact with the family is excellent, no anticipated problems*', while Level 2 applied where '*contact with the family is giving cause for concern*'.<sup>166</sup> For more on Family Liaison Policy, see Chapter 12, The Treatment of the Family.

123. Although formal family liaison logs did not exist at the time the Morgan One and Hampshire/Police Complaints Authority investigations took place, there were, nevertheless, records in relation to family liaison activities during this period. There is no mention of any consideration by the 2000 Murder Review of family liaison during the Hampshire/Police Complaints Authority Investigation, and there is no record that any family liaison documents were sought by the 2000 Murder Review.

124. The Panel agrees with the 2000 Murder Review Report that it was necessary to increase the level of family liaison from Level 1 to Level 2, as there was evidence of family concern in relation to corruption and conspiracy.

## 7 The 2000 Murder Review Report's recommendations

125. While the 2000 Murder Review Report acknowledged that the '*[p]assage of time and availability or otherwise of persons and documentation may adversely affect the outcome of some of the recommendations in this report*', it stated the following:

- (a) *'It is the assessment that new investigative leads are now available which were not considered or available to the original enquiry.*
- (b) *New evidence is available. Forensic treatments to key exhibits are now available.*
- (c) *Events since the original investigations mean circumstances exist for key witnesses to change allegiance.*
  - *There are forensic opportunities.*
  - *Relevant exhibits and documentation have been located.*
  - *There are investigative opportunities.*
  - *There are intelligence opportunities.*<sup>167</sup>

126. The 2000 Murder Review Report made a total of 83 recommendations, the majority of which were recommended lines of enquiry for a future reinvestigation.<sup>168</sup> Approximately half of these 83 recommendations could be considered by the Panel to be significant, in

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<sup>166</sup> 2000 Murder Review Report, MPS020525001, p78, paras 9.12-9.13, 06 October 2000.

<sup>167</sup> 2000 Murder Review Report, MPS020525001, p81, para 10.2, 06 October 2000.

<sup>168</sup> Para 2.11 of p6 of the 2000 Murder Review Report states that 82 recommendations have been identified; 83 recommendations are subsequently listed throughout the report.

that they referred to the suspects, persons of interest or significant witnesses identified in investigations, whereas the others concerned completing minor lines of enquiry. The final two recommendations were that '*a focused reinvestigation is commenced into the murder of Daniel MORGAN*'<sup>169</sup> and that '*consideration is given to deployment of a reinvestigation team from outwith the South East London area*'.<sup>170</sup>

127. In addition to the 83 recommendations, the 2000 Murder Review Report also raised 22 considerations regarding matters where '*further work should be considered by a reinvestigation team*'.<sup>171</sup>

128. Jonathan Rees was described in the 2000 Murder Review Report as a key suspect, the only individual to be labelled as such. Glenn Vian, Garry Vian, Margaret Harrison, John Peacock, Sharon Rees and Kevin Lennon were described as key witnesses. Jonathan Rees was correctly identified as the key suspect and the recommendation to further investigate him was justified. It is not clear why he was the only suspect identified during the review. In general, the 2000 Murder Review Report's suggestions for further lines of enquiry in a reinvestigation were both thorough and logical.

129. The 2000 Murder Review examined the police actions of the Morgan One Investigation, the Hampshire/Police Complaints Authority Investigation and Operation Nigeria/Two Bridges. Although elements of the Hampshire/Police Complaints Authority Investigation were reviewed by the 2000 Murder Review team, and there is evidence that some material was used to inform the analysis in the 2000 Murder Review Report, the review's approach to the Hampshire/Police Complaints Investigation was unsatisfactory and incomplete.

There were no recommendations arising directly out of the Hampshire/Police Complaints Authority Investigation. There was no full analysis of the Hampshire/Police Complaints Authority Investigation similar to the analysis of the Morgan One Investigation. A systematic analysis of the Hampshire/Police Complaints Authority Investigation material would have identified important lines of enquiry which a future investigation could have addressed.

## 7.1 The 2000 Murder Review Report's consideration of corruption

130. The suggestion that corruption may have played a part in the initial investigation into Daniel Morgan's murder had been a concern, in particular, to the family of Daniel Morgan, since the early days of the Morgan One Investigation. The 2000 Murder Review Report does not specifically refer to the suspicion or possibility of police corruption occurring during the course of the Morgan One Investigation. The stated purpose of cold-case reviews such as this

169 2000 Murder Review Report, MPS020525001, p82, para 10.7, 06 October 2000.

170 2000 Murder Review Report, MPS020525001, p82, para 10.8, 06 October 2000.

171 2000 Murder Review Report, MPS020525001, p6, para 2.11, 06 October 2000.

was to examine existing evidence of past investigations, and the Panel notes that there was no requirement in the 2000 Murder Review's Terms of Reference to examine the possibility of police officers having corruptly affected the murder investigations.

131. The 2000 Murder Review Report put forward a proposal relating to DS Sidney Fillery's activities on the Morgan One Investigation, arising from its review of messages, actions and other documents (see paragraphs 58-60 above). Although not explicitly related to corruption, it ensured that the alleged corrupt activities of DS Fillery were in fact considered. It was not necessary for the 2000 Murder Review's Terms of Reference to include explicit reference to corruption in order for this element to be considered.

132. Although the Panel has identified some gaps in the overall 2000 Murder Review Report, for example the lack of analysis on the Letts desk diary and some aspects of the forensics examination (see paragraph 108 above), the 2000 Murder Review of the Morgan One Investigation was thorough, and provided a basis for opening a further investigation employing both covert and overt elements.

## 8 The Metropolitan Police response to the 2000 Murder Review Report

133. On 14 November 2000, DI Steve Hagger presented the 2000 Murder Review Report to senior officers.<sup>172</sup> It contained the recommendation that consideration be given to the appointment of a team from outside South East London to reinvestigate the case.<sup>173</sup> Following discussion it was agreed that a reinvestigation would commence, and that '*in view of issues surrounding the case another Force, unconnected with the MPS [Metropolitan Police Service] or subsequent investigations, be asked to undertake the enquiry*'.<sup>174</sup>

134. As a result of a meeting on 04 January 2001,<sup>175</sup> DAC Roy Clark determined that '*the MPS [Metropolitan Police Service] and NOT an outside force would undertake the focussed re-investigation*' (emphasis in original), a decision which conflicts with the agreement made on 14 November 2000.<sup>176</sup> It was further determined that '*[t]he reinvestigation would be undertaken jointly by CIB [Criminal Investigation Bureau] (covert side) and SCG [Strategic Coordinating Group] (traditional investigative side)*'.<sup>177</sup>

135. According to former DAC Roy Clark during interview with the Panel, attempts to find another police force to conduct the investigation were unsuccessful.<sup>178</sup>

<sup>172</sup> Panel interview with former DI Steve Hagger, p3, para 19, 31 May 2016.

<sup>173</sup> 2000 Murder Review Report, MPS020525001, p82, para 10.8, 06 October 2000.

<sup>174</sup> Minutes of the Murder Review meeting, MPS094325001, p235, 14 November 2000.

<sup>175</sup> File note of DCS Barry Webb, MPS094325001, p7, 09 January 2001.

<sup>176</sup> Minutes of the Murder Review meeting, MPS094325001, p235, 14 November 2000.

<sup>177</sup> File note of DCS Barry Webb, MPS094325001, p7, 09 January 2001.

<sup>178</sup> Panel interview with former DAC Roy Clark, pp4-5, 31 July 2018.

136. In 2020, former DAC Roy Clark informed the Panel that he recalls personally contacting at least two forces but was turned down on resourcing grounds. Having been unable to persuade another force to undertake the enquiry, DAC Clark decided that the Metropolitan Police would conduct the investigation.

137. As a result of the 2000 Murder Review Report, the Abelard One/Morgan Two Investigation was established in 2001.



# Chapter 6: Abelard One/ Morgan Two Investigation

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## 1 Introduction

1. Following the completion of the 2000 Murder Review Report (see Chapter 5) the Metropolitan Police decided, as recommended by the Report, to institute a fresh, dedicated reinvestigation of the murder of Daniel Morgan.

2. The new investigation, the third since Daniel Morgan's murder, had two limbs: a covert arm, Abelard One, which was established in April 2001 and led by DCI, later T/D/Supt David Zinzan; and an overt arm, Morgan Two, which was established in May 2002 and led by DCS David Cook. The two operations are referred to as the Abelard One/Morgan Two Investigation.

3. After the closure of the Abelard One/Morgan Two Investigation it was reviewed by DAC Michael Fuller in November 2003 and he expressed satisfaction that the investigation had dealt with the recommendations made by the 2000 Review Report. However, he expressed concern about the ongoing activities of Glenn and Garry Vian and made recommendations for future action.

### 1.1 Chronology of key events relating to the Abelard One/Morgan Two Investigation

- **14 November 2000** Decision made that a re-investigation of Daniel Morgan's murder was to be conducted.
- **04 January 2001** Decision that the reinvestigation would comprise a covert side conducted by the Metropolitan Police Complaints Investigation Bureau and an overt side conducted by the Metropolitan Police Serious Crime Group.
- **02 April 2001** The investigation's Terms of Reference established.
- **April 2001** Lifestyle surveillance of Glenn Vian commenced.
- **June 2001** Lifestyle surveillance of Person P9 commenced.
- **August 2001** Lifestyle surveillance of former DS Sidney Fillery commenced.
- **October 2001** Lifestyle surveillance of James Cook commenced.
- **Spring 2002** DCI David Zinzan temporarily promoted to D/Supt.
- **17 May 2002** DCS David Cook appointed as the Senior Investigating Officer of the overt Morgan Two Investigation.
- **26 June 2002** DCS David Cook appeared on *Crimewatch* broadcast.
- **June-July 2002** DCS David Cook was placed under surveillance by *News of the World* journalists.
- **03 October 2002** Person P9 was arrested.
- **07 October 2002** James Cook was arrested.
- **10 October 2002** Person P9 was interviewed.
- **19 October 2002** Garry Vian was arrested.
- **24 October 2002** Glenn Vian was arrested.
- **16 December 2002** Jonathan Rees and James Cook were arrested.
- **17 December 2002** Searches of former DS Sidney Fillery's premises carried out.



- **16-20 December 2002** Third phase of covert surveillance.
- **17 January 2003** Former DS Sidney Fillery was arrested.
- **07 March 2003** DCS David Cook submitted his advice file to the Crown Prosecution Service.
- **08 August 2003** Decision not to prosecute due to insufficient evidence.

### Officers of significance in the Abelard One/Morgan Two Investigation (in order of rank)

- DAC Roy Clark
- DAC William Griffiths
- Commander Andre Baker
- Commander Andrew Hayman
- DCS Shaun Sawyer
- DCS David Cook (Senior Investigating Officer – Morgan Two)
- DCI, later T/D/Supt David Zinzan (Senior Investigating Officer – Abelard One)
- A/DCI Neil Hibberd
- DS Richard Oliver

## 2 Establishment of the Abelard One/Morgan Two Investigation

4. The Abelard One/Morgan Two Investigation was established as a result of several factors – intelligence gathered during Operation Nigeria/Two Bridges in 1999 (see Chapter 4, Operation Nigeria/Two Bridges), new evidence received from Person F11 in January 1999,<sup>1</sup> and the 2000 Murder Review Report in October 2000 (see Chapter 5, The 2000 Murder Review: The Cold-Case Review of the Investigation into Daniel Morgan’s Murder). This report included 83 recommendations<sup>2</sup> for possible investigative actions, concluding that a ‘*focused reinvestigation*’ should be undertaken and ‘*that consideration is given to deployment of a reinvestigation team from outwith the South East London area*’.<sup>3</sup>

<sup>1</sup> Witness statement of Person F11, MPS040657001, 22 January 1999.

<sup>2</sup> 2000 Murder Review Report, MPS020525001, pp83-91, 06 October 2000.

<sup>3</sup> 2000 Murder Review Report, MPS020525001, p82, paras 10.7-10.8, 06 October 2000.

5. In a Metropolitan Police meeting on 14 November 2000, led by DAC Roy Clark and attended by a representative of Her Majesty's Inspectorate of Constabulary, it was agreed that '*another Force*' should conduct the reinvestigation.<sup>4</sup> Evidence suggests DAC Clark did seek an outside force to undertake the reinvestigation but his attempts were unsuccessful.<sup>5</sup>

6. Former DAC Clark told the Panel in interview that he had felt that, had the investigation been taken over by another police force then the progress made by Operation Nigeria/Two Bridges would have been sacrificed<sup>6</sup> (see Chapter 4, Operation Nigeria/Two Bridges). It was eventually decided on 4 January 2001 that the Metropolitan Police would undertake the reinvestigation.<sup>7</sup>

7. It was further decided on 04 January 2001 that the reinvestigation should comprise a covert side conducted by the Metropolitan Police Complaints Investigation Bureau which was responsible for, among other things, investigating police corruption, and was succeeded by the Directorate of Professional Standards. It would seek information to be acted on by the overt investigation which would be conducted by the Metropolitan Police Serious Crime Group.<sup>8</sup>

8. From its establishment in April 2001, the covert side of the investigation, Abelard One, involved both covert surveillance and overt investigation<sup>9</sup> (such as consideration of the forensic recommendations of the 2000 Review Report). The overt side of the investigation, Morgan Two,<sup>10</sup> was created in May 2002 after an overall strategy had been developed and some investigation had taken place.<sup>11</sup>

9. The covert Abelard One and overt Morgan Two investigations operated jointly and ultimately concurrently, forming a single investigation, and are referred to<sup>12</sup> as the Abelard One/Morgan Two Investigation.

### 2.1 The recruitment of DCI David Zinzan

10. On 15 February 2001, DCI David Zinzan, (who was temporarily promoted to Detective Superintendent in Spring 2002)<sup>13</sup> was instructed by Commander Andrew Hayman of the Metropolitan Police Directorate of Professional Standards to read the papers on the Daniel Morgan case and prepare an investigative plan.<sup>14,15</sup>

11. DCI David Zinzan was appointed Senior Investigating Officer of the Abelard One Investigation some time between 15 February 2001 and 02 April 2001.<sup>16,17</sup> On 14 March 2001 DCI Zinzan reported that he had acquainted himself with the case and had spoken about the 2000 Murder Review Report with its author, DI Steve Hagger.<sup>18</sup> He had identified many concerns which, he said, needed to be considered prior to any reinvestigation.

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4 Minutes of the Murder Review Meeting, MPS094325001, pp233 and 235, 14 November 2000.

5 Panel interview with former DAC Roy Clark, pp4-5, 31 July 2018.

6 Panel interview with former DAC Roy Clark, pp4-5, 31 July 2018.

7 File note of DCS Barry Webb, Review of the investigation into the murder of Daniel Morgan, MPS094325001, p7, 09 January 2001.

8 File note of DCS Barry Webb, Review of the investigation into the murder of Daniel Morgan, MPS094325001, p7, 9 January 2001.

9 Decision log, MPS04052700, p8, 03 April 2001.

10 Metropolitan Police, proactive assessment and tasking proforma, MPS094325001, p16, 22 December 2003.

11 Operation Abelard Gold Group meeting minutes, MPS049856001, 17 May 2002.

12 File note of DCS Barry Webb, Review of the investigation into the murder of Daniel Morgan, MPS094325001, p7, 09 January 2001.

13 Panel interview with former DCI David Zinzan, p14, 15 March 2016.

14 Panel interview with former DCI David Zinzan, p1, 15 March 2016.

15 Report of DCI David Zinzan, MPS054322001, p1, 14 March 2001.

16 DCI David Zinzan was first contacted by a Detective Superintendent on 15 February 2001, see Report by DCI David Zinzan, MPS054322001, p1, 14 March 2001.

17 DCI David Zinzan entered his first decision in his decision log on 02 April 2001, see Decision log, MPS040527001, p5, 02 April 2001.

18 Report by DCI David Zinzan, MPS054322001, 14 March 2001.

12. DCI David Zinzan explained to Commander Andrew Hayman that his current incident room at Thornton Heath was close to the offices of Law & Commercial (the new name of Southern Investigations, of which Daniel Morgan had been a partner), and was not secure. He was very concerned that suspects in the case were ‘*corrupters of police*’, that his premises could easily be accessed by serving members of the Metropolitan Police and that this had the potential to ‘*compromise the investigation*’.<sup>19</sup>

13. The 2000 Murder Review Report had recommended that ‘*consideration is given to deployment of a reinvestigation team from outwith the South East London area*’.<sup>20</sup> DCI David Zinzan’s report unequivocally stated ‘*[i]f this advice is not followed then a clear reason at a senior level needs to be documented*’. Otherwise, ‘*[t]he suspicion of corruption by the family may be reinforced*’.<sup>21</sup>

14. DCI David Zinzan said that:

*‘[m]embers of my team will have to be vetted by CIB,<sup>22</sup> Masonic connections will have to be explored. My two Detective Inspectors have declared Masonic interests, which would, in my view, preclude them from being on the enquiry team. Many of my officers, have spent most of their careers in South London CID offices and know the individuals concerned. I have no reason to doubt their integrity but it may provide the family with the ammunition should the new enquiry not produce the result they desire.’<sup>23</sup>*

See Chapter 10 for further discussion of freemasonry and any connection to the investigations of Daniel Morgan’s murder.

15. He also reported that a team would need to be available to deal with any ‘*live issues*’ which arose during the course of the covert investigation.<sup>24</sup> He concluded his report by recommending that his unit should not be involved and suggested that another unit should undertake the reinvestigation.<sup>25</sup> In interview with the Panel, former DCI David Zinzan said that he was told by Commander Andrew Hayman that he was to lead the reinvestigation.<sup>26</sup>

16. Former DCI David Zinzan also told the Panel that his concerns were subsequently addressed,<sup>27</sup> and thereafter he felt supported by Commander Andrew Hayman and DCS Shaun Sawyer, his commanding officer.<sup>28,29</sup> Former DCI Zinzan, explained that ‘*he had everything he needed*’, he was given a team comprising vetted officers and was accommodated ‘*in a secure floor*’. He felt that ‘*[p]eople had confidence in him. Resources were not an issue; money was no object,*’ and anything he asked for he got.<sup>30</sup> This view was subsequently endorsed in the 2006 Report from the Commissioner of the Metropolitan Police Service to the Metropolitan Police Authority.<sup>31</sup>

19 Report by DCI David Zinzan, MPS054322001, p2, 14 March 2001.

20 2000 Murder Review Report, MPS020525001, p82, paras 10.7-10.8, 06 October 2000.

21 Report by DCI David Zinzan, MPS054322001, p2, 14 March 2001.

22 Complaints Investigation Bureau.

23 Report by DCI David Zinzan, MPS054322001, p2, 14 March 2001.

24 Report by DCI David Zinzan, MPS054322001, p2, 14 March 2001.

25 Report by DCI David Zinzan, MPS054322001, p3, 14 March 2001.

26 Panel interview with former DCI David Zinzan, pp3 and 15, 15 March 2016.

27 Panel interview with former DCI David Zinzan, pp2-5, 15 March 2016.

28 Panel interview with former DCI David Zinzan, pp1, 6 and 13, 15 March 2016.

29 Panel interview with former DCI David Zinzan, p4, 23 May 2018.

30 Panel interview with former DCI David Zinzan, p6, 15 March 2016.

31 The 2006 Report from the Commissioner of the Metropolitan Police Service to the Metropolitan Police Authority, MPS105740001, pp46-47, paras 273 and 281, 31 January 2006.

17. DCI David Zinzan's assessment of the risks facing the reinvestigation were well founded. Senior Metropolitan Police officers initially failed to recognise the gravity of the allegations of corruption levied at the Metropolitan Police and at some of those involved in the Morgan One Investigation, DCI Zinzan's efforts in raising his concerns and securing appropriate structures were commendable.

18. The 2000 Murder Review Report had concluded that consideration should be given to deploying 'a *reinvestigation team from outwith the South East London area*'. The implication was that there was a need to safeguard the reinvestigation from corruption. Following DCI David Zinzan's recommendations, appropriate measures were taken to mitigate those risks, such as locating the investigation at secure premises and vetting officers. These measures demonstrate that lessons had been learned from previous investigations.

### 3 The structure and accountability of the Abelard One/Morgan Two Investigation

19. On Monday 02 April 2001, in his first recorded decision, DCI David Zinzan recorded that there would be 'a *focussed re-investigation into the murder of Daniel Morgan*'<sup>32</sup> and that the Terms of Reference were:

1. *'To use the report of the Murder Review Group as the template for the enquiry.'*
2. *'Any significant departure from this ToR will be sanctioned by a management board.'*<sup>33</sup>

20. The following day, the '[p]lanned method of investigation'<sup>34</sup> was recorded in the decision log as follows:

*'This re-investigation will be phased. The first phase will be a covert operation. The purpose of this will be to assess*

- *Current lifestyle of subject(s)*
- *Gather up to date intelligence*
- *Identify technical opportunities*
- *Identify potential triggers to be utilised and how to implement them*

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32 Decision log, MPS040527001, p5, 02 April 2001.

33 Decision log, MPS040527001, p5, 02 April 2001.

34 Decision log, MPS040527001, p8, 03 April 2001.

*The second phase will consist of an overt re-investigation headed by a “nominal” SIO [Senior Investigating Officer] from the SCG [Serious Crime Group]. This is to disguise DPS [Directorate of Professional Standards] involvement. This will involve:-*

- *A public announcement of the new enquiry involving the DPA [Directorate of Public Affairs] and the family.*
- *Maximum use of “actions” to produce “triggers” and or intelligence opportunities*
- *Use of intelligence to develop investigative leads.*<sup>35</sup>

21. The investigation team at this early stage comprised only five officers, including the Senior Investigating Officer. The other four officers were described as enquiries officers; two of them also acted as Family Liaison Officers when it became necessary.<sup>36</sup>

22. The 2000 Murder Review’s suggestion that the reinvestigation team be free of South East London connections with previous Daniel Morgan murder investigations was complied with.

23. On 03 April 2001 a decision was made that a Management Board was to be established, and would comprise DCI David Zinzan, DCS Shaun Sawyer, and a senior officer from the Serious Crime Group.<sup>37</sup>

## 4 The Abelard One/Morgan Two Gold Group

24. Following an extensive period of surveillance of various kinds, on 07 May 2002 T/D/Supt David Zinzan wrote to DCS Shaun Sawyer proposing the formation of a Gold Group<sup>38</sup> to support both the covert and overt sides of the Abelard One/Morgan Two Investigation. He wrote:

*‘[t]his case is a particularly difficult one; two previous investigations have been unsuccessful. There are substantial grounds to believe that the first investigation was undermined by corruption, FLO [Family Liaison] is assessed as level 2 bordering on level 3, the family are being represented per bono [sic] by a cause celeb solicitor and there is a considerable amount of correspondence on file from MP’s [sic]. In short this is an investigation that could attract considerable publicity. For this reason I believe that it is important that a Gold Group is formed to assist in developing strategies and to co-ordinate the investigation.*<sup>39</sup>

25. A Gold Group was appointed,<sup>40</sup> with the following Terms of Reference:

- a. *‘Assist in developing the “Trigger strategies [sic].*
- b. *Assist in Risk Assessments.*
- c. *Assist in developing press strategies.*
- d. *Assist in resource bids where appropriate.*

35 Decision log, MPS040527001, p8, 03 April 2001.

36 Decision log, MPS040527001, p10, 04 April 2001.

37 Decision log, DCI David Zinzan, MPS040527001, p9, 03 April 2001.

38 A ‘Gold Group’ is in overall strategic command of the operation. It sets the overarching strategy that all other plans must take account of.

39 Report by T/D/Supt David Zinzan, MPS047329001, p1, 07 May 2002.

40 File note re Gold Group, MPS047322001, p6, 15 May 2002.

- e. *Identifying impact upon the MPS [Metropolitan Police Service] of operational decisions/not undertaking certain actions.*<sup>41</sup>

26. The first Gold Group meeting took place on 17 May 2002. It was chaired by DAC Andrew Hayman representing the Directorate of Professional Standards and included DAC William Griffiths representing the Serious Crime Group.<sup>42,43,44</sup> It was recorded that a Gold Group was ‘convened’ and that Commander Andre Baker ‘leads’.<sup>45</sup> All meetings were chaired by senior officers<sup>46,47,48,49,50</sup> including DAC Hayman and DCS Sawyer.<sup>51,52,53</sup>

27. Meetings were held during an intense planning period in May and July 2002, during which the overt arm of the reinvestigation, Morgan Two, was established.<sup>54,55,56,57,58</sup> The Gold Group reconvened in May and August 2003 when the Abelard One/Morgan Two Investigation was being brought to a close.<sup>59,60</sup>

28. In 2020, the Metropolitan Police told that Panel that the Abelard One/Morgan Two Investigation was not one which required regularly scheduled Gold Group meetings, and that it was sufficient for such meetings to be arranged as and when issues arose.

29. There were no meetings of the Gold Group between July 2002 and May 2003, a significant proportion of the Abelard One/Morgan Two Investigation, including all consideration and decision-making about possible prosecutions. The Gold Group should have met regularly throughout the investigation.

## 5 The overt side of the Abelard One/Morgan Two Investigation

30. On 17 May 2002, DCS David Cook was appointed as the Senior Investigating Officer for the overt Abelard One/Morgan Two Investigation. He was responsible for the ‘re-investigation and the actions raised by the review team’ and to pursue ‘lines of investigation generated by the Crimewatch appeal’. The Deputy Senior Investigating Officer was A/DCI Neil Hibberd.

41 ‘Operation Abelard Gold Group Terms of reference’, MPS042644001, undated.

42 File note re Gold Group, MPS047322001, p6, 15 May 2002.

43 Minutes of Gold Group meeting, MPS049856001, 17 May 2002.

44 Action A110, ‘DAC HAYMAN of DPS & DAC GRIFFITHS of SCG to be approached re use of Gold Group. Liaise with DCS SAWYER who will initiate this approach’, MPS040410001, 13 March 2002.

45 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p129, undated.

46 Minutes of Gold Group meeting, MPS049871001, 29 May 2002.

47 Minutes of Gold Group meeting, MPS049856001, p7, 17 May 2002.

48 Minutes of Gold Group meeting, MPS049784001, 01 July 2002.

49 Minutes of Gold Group meeting, MPS049848001, 03 July 2002.

50 Minutes of Gold Group meeting, MPS049778001, 11 July 2002.

51 Minutes of Gold Group meeting, MPS049856001, 17 May 2002.

52 Action A110, ‘DAC HAYMAN of DPS & DAC GRIFFITHS of SCG to be approached re use of Gold Group. Liaise with DCS SAWYER who will initiate this approach’, MPS040410001, 13 March 2002.

53 Minutes of Gold Group meeting, MPS049778001, 11 July 2002.

54 Minutes of Gold Group meeting, MPS049856001, 17 May 2002.

55 Minutes of Gold Group meeting, MPS049871001, 29 May 2002.

56 Minutes of Gold Group meeting, MPS049784001, 01 July 2002.

57 Minutes of Gold Group meeting, MPS049848001, 03 July 2002.

58 Minutes of Gold Group meeting, MPS049778001, 11 July 2002.

59 Minutes of Gold Group meeting, MPS061654001, pp2-3, 07 May 2003.

60 Minutes of Gold Group meeting, MPS071568001, 12 August 2003.



31. Former DCS David Cook has, however, denied that he was appointed the Senior Investigating Officer for the overt Abelard One/Morgan Two Investigation, saying that he had agreed only to appear on the proposed *Crimewatch* programme. In an interview with the Panel, he said *'I was only supposed to be involved in it for a maximum of two weeks. We were asked to create a small team, so that we could actually go out, in addition to Crimewatch, to act as triggers for the investigation, and after two weeks that would be the end of the matter.'*<sup>61</sup> In the 2006 Report to the Metropolitan Police Authority, DCS David Cook (the author of the 2006 Report) was stated to have been appointed as the Senior Investigating Officer of the Abelard One/Morgan Two Investigation:<sup>62</sup> *'It was initially intended that the Murder Command would support a covert investigation led by the Directorate of Professional Standards. However, this strategy was changed which gave primacy to [DCS David Cook], supported by the [Directorate of Professional Standards].'*<sup>63</sup>

32. It is clear from the material available that in May 2002 DCS David Cook was appointed not as 'nominal' Senior Investigating Officer but as the actual Senior Investigating Officer for the overt investigation. Former DCS Cook told the Panel in interview that the covert Abelard One Investigation stopped after two weeks, *'and then the anti-corruption command went away and started looking at how they could resurrect it in the future [...]. They then asked us if we would continue on with their investigation at that time. [...] So, we went from having a two-week involvement, which should have ended really after my day on Crimewatch, to getting dragged into this thing. The anti-corruption command were very protective of their intelligence and evidence, it was their operation, you know? I was the pseudo-SIO [Senior Investigating Officer], doing everything in conjunction, or at the direction of the anti-corruption command, until really the second phase of the operation.'* He later said, *'I was asked to run the overt phase of the investigation, and that covert phase was only to last two weeks.'*<sup>64</sup>

33. Former DCS David Cook also told the Panel in interview that he did not become responsible until phase two started. When asked when that was, he responded, *'September, October? Towards the end of September, October, 14th September, something like that, onwards.'*<sup>65</sup> He said that even at this point he was not entirely in charge and that T/D/Supt David Zinzan was actively involved in the discussions throughout.<sup>66</sup>

34. The evidence which is available does not support former DCS David Cook's assertion that he was only to be involved for two weeks. Nor does it support the assertion that he did everything at the direction of the Anti-Corruption Command until September/October 2002. In a report to Commander David Armond dated 12 November 2002, DCS Cook wrote, *'I was briefed up on the proposed plan and after further discussions with the Gold Group it was agreed that my role would be extended to take responsibility for the actual re-investigation, whilst DPS [Directorate of Professional Standards] supported me through the deployment of covert evidence gathering facilities.'*<sup>67</sup>

61 Panel interview of former DCS David Cook, Transcript 1, p7 ,25 August 2020.

62 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 270, 07 April 2006.

63 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 271, 07 April 2006.

64 Panel interview of former DCS David Cook, Transcript 1, p9, 25 August 2020.

65 Panel Interview of former DCS David Cook, Transcript 1, p10, 25 August 2020.

66 Panel interview of former DCS David Cook, Transcript 1, p11, 25 August 2020.

67 Report by DCS David Cook to Commander David Armond, EDN001095001, p3, 12 November 2002.

35. The two Senior Investigating Officers of the parallel covert and overt investigations worked closely together. This arrangement continued until late July 2002 when T/D/Supt David Zinzan had to take special leave until October 2002 when he returned to work on the Abelard Investigation.<sup>68</sup> During his absence D/Supt Mick Taylor took command of the covert investigation.<sup>69</sup> At a meeting with the family of Daniel Morgan in November 2002, the family were told that T/D/Supt Zinzan was resuming control over the covert investigation, and that DCS David Cook headed the overt investigation and was the overall Senior Investigating Officer into the murder.<sup>70</sup>

36. On 23 May 2002, a meeting was held between the Directorate of Professional Standards and the Serious Crime Group, the two departments from which the covert and overt teams were drawn, attended by T/D/Supt David Zinzan, DS Richard Oliver, DCS David Cook and A/DCI Neil Hibberd.<sup>71</sup> It was agreed that the covert team, which had by now been in existence for 15 months and was thus familiar with some of the background papers, would make an assessment of all of the 2000 Murder Review Report recommendations and provide DCS Cook with an indication as to which should be prioritised. It was also decided that all documentation and exhibits, which had been provided to the Directorate of Professional Standards team from the 2000 Murder Review Group, would be transferred to the Serious Crime Group.<sup>72</sup>

37. A major part of the work was the implementation of the 83 recommendations for further investigation made in the 2000 Murder Review Report.<sup>73</sup> A minority of the recommendations, including those relating to the surveillance of key suspects, were dealt with by the Abelard One Investigation initially.<sup>74,75,76,77,78,79,80,81</sup> Others were dealt with by the Morgan Two Investigation,<sup>82</sup> which also had responsibility for pursuing lines of enquiry generated by a *Crimewatch* appeal, and other triggers agreed with the covert investigation.<sup>83,84</sup>

38. There is no evidence in the material available that the covert side of the investigation provided the overt side of the investigation with an indication as to which of the Murder Review Report recommendations were priorities, as had been agreed on 23 May 2002.

68 Panel interview with former T/D/Supt David Zinzan, p11, 15 March 2016.

69 Notes of meeting, MPS040546001, p1, 06 August 2002.

70 Notes of family liaison meeting, MPS046659001, 12 November 2002.

71 Notes of meeting, MPS042623001, p2, 23 May 2002.

72 Notes of meeting, MPS042623001, p2, 23 May 2002.

73 Decision log, MPS040527001, p5, 02 April 2001.

74 SIO sensitive decision log, MPS072551001, p5, 17 June 2002.

75 Action A1, 'Research Glen [sic] VIAN. This is to include obtaining all intelligence reports held and undertaking surveillance to ascertain current lifestyle & associates', MPS040861001, 05 April 2001.

76 Action A2, 'Research Gary [sic] VIAN. This is to include obtaining all intelligence reports held and undertaking surveillance to ascertain current lifestyle & associates', MPS040862001, 05 April 2001.

77 Actions A3, 'Research [Person P9]. This is to include obtaining all intelligence reports held and undertaking surveillance to ascertain current lifestyle & associates', MPS040864001, 05 April 2001.

78 Action A4, 'Research Sidney FILLERY. This is to include obtaining all intelligence reports held & undertaking surveillance to ascertain current lifestyle & associates', MPS040865001, 05 April 2001.

79 Action A5, 'Research James COOK. This is to include obtaining all intelligence reports held & undertaking surveillance to ascertain current lifestyle & associates', MPS040866001, 05 April 2001.

80 Action A6, 'Research current situation of William Jonathan REES in Prison. Obtain details of visitors, frequency', MPS040867001, 05 April 2001.

81 Action A7, 'Conduct Intelligence Assessment of Sharon REES & Identify current relationship with William Jonathan REES', MPS040868001, 05 April 2001.

82 2000 Murder Review Report, 'Summary of Recommendations', MPS061189001, pp3-20, 06 October 2000.

83 'Briefing document Operation Abelard', MPS060441001, pp1-3, 15 May 2002.

84 Decision log, MPS072551001, pp3-4, 05 July 2002.



39. In addition to the Senior Investigating Officer and the Deputy Senior Investigating Officer, the Morgan Two Investigation initially comprised ten officers. Four of these officers formed the outside enquiry team,<sup>85</sup> and a team of six was based in the Major Incident Room.<sup>86</sup> The investigation was based in Hendon and all the officers working on it were from North London, in accordance with the 2000 Murder Review suggestion that the reinvestigation should comprise officers drawn ‘*from outwith the South East London area*’.<sup>87,88,89</sup>

40. A decision was made on 23 May 2002 that DCS David Cook and/or A/DCI Neil Hibberd (the Senior and Deputy Senior Investigating Officers for the Morgan Two Investigation) would hold daily briefings with T/D/Supt David Zinzan (the Senior Investigating Officer for the Abelard One Investigation), to discuss operational developments, tactics and opportunities.<sup>90</sup> Former T/D/Supt Zinzan told the Panel that before the Morgan Two Investigation made arrests, they would meet in another location to ensure confidentiality.<sup>91</sup>

41. Officers working on the overt investigation were not informed of the existence of the covert investigation, and information resulting from the covert investigation was supplied on a need-to-know basis, as is normal in such circumstances.<sup>92</sup> This reflected an awareness, expressed by former T/D/Supt David Zinzan, of the potential risk of corruption and the importance of carrying out a secure and independent investigation.<sup>93</sup>

42. The investigative history of Daniel Morgan’s murder and the potential for police corruption to compromise the effectiveness of the investigation made it imperative that the covert side of the reinvestigation be kept secret and this in turn made it sensible, and indeed good practice, that there be two arms, one covert and one overt. The decision to have two Senior Investigating Officers was a positive one. The evidence suggests that there was effective communication between the two Senior Investigating Officers, DCS David Cook and T/D/Supt David Zinzan.

## 5.1 Information from witnesses

### 5.1.1 Person F11

43. Person F11 had made a statement on 22 January 1999, the content of which contributed to the decision to reinvestigate Daniel Morgan’s murder.<sup>94,95</sup> In his statement, he had alleged that he had been told that Jonathan Rees had commissioned the murder; that ‘*Glen VINES* [sic]’ committed it by striking the victim in the head with an axe; that James Cook was the

85 SIO sensitive decision log, MPS072551001, p3, 23 May 2002.

86 ‘*Indexing Policy File*’, MPS061184001, p2, 13 June 2002.

87 2000 Murder Review Report, MPS020525001, p82, para 10.8, 06 October 2000.

88 Minutes of meeting, MPS053339001, p1, 31 May 2002.

89 Email from DCS Shaun Sawyer to DAC Andrew Hayman, MPS054551001, p2, 19 April 2002.

90 SIO sensitive decision log, Decision taken on 23 May 2002, by A/DCI Neil Hibberd, MPS072551001, p4, 05 July 2002.

91 Panel interview with former T/D/Supt David Zinzan, p14, 15 March 2016.

92 SIO sensitive decision log, MPS072551001, pp4-5, 05 July 2002.

93 Panel interview with former T/D/Supt David Zinzan, pp2 and 5, 23 May 2018.

94 Witness statement of Person F11, MPS046816001, 22 January 1999.

95 Person F11’s risk assessment, MPS049793001, p2, 29 May 2002.

driver; and that Person P9 had stored the car in a garage prior to the car being destroyed.<sup>96</sup> This information was later construed by DCS David Cook as corroborating Kevin Lennon's statement that Jonathan Rees had been involved in arranging the murder of Daniel Morgan.<sup>97</sup>

44. The 2000 Murder Review Report had recommended that Person F11 be re-interviewed.<sup>98</sup> A meeting with him took place on 20 September 2001.<sup>99</sup> At this time, as stated in DCS David Cook's advice file to the Crown Prosecution Service, Person F11 was in prison for having solicited the murder of James Cook.<sup>100</sup> A note of the meeting of 20 September 2001 records that Person F11 wanted his statement concerning the murder to be '*retracted legally*' and that he '*was forced and put under duress to sign [the statement]*'.<sup>101</sup> He also talked of his concerns that he would become a target for James Cook if he gave evidence against him. He stated '*[t]he only person likely to cause me harm is [James] Cook*'.<sup>102</sup> This was not the first time that Person F11 had claimed that he had been put under duress to sign his statement or that he was concerned about being a target for James Cook. He had made similar claims in December 1999<sup>103</sup> and declared that he would never give evidence at any Daniel Morgan murder trial (see Chapter 4, Operation Nigeria/Two Bridges). The fact that Person F11 stated he was put under duress to sign his statement was later disputed by the original debriefing officer (see Chapter 8, The Abelard Two Investigation).<sup>104</sup>

45. A risk assessment was carried out on Person F11 in May 2002.<sup>105</sup> This document stated how important Person F11 was to the Abelard One/Morgan Two Investigation, as it asserted that '*[t]he Intelligence supplied by [Person F11] forms the fundamental basis for operation "ABELARD"*'.<sup>106</sup> This risk assessment recognised that Person F11 had retracted his statement in relation to the murder of Daniel Morgan because he said that he had been coerced, but also noted that Person F11 had not claimed that the evidence he had given was wrong or inaccurate.<sup>107</sup>

46. On 01 June 2002, DS Richard Oliver visited Person F11 in prison, and it was recorded that he was '*unwilling to assist due to safety of self and family*'.<sup>108</sup>

47. On 25 June 2002, DCS David Cook and A/DCI Neil Hibberd had a meeting with Person F11, who had recently been released from prison, at a covert location. The note of this meeting recorded, '*[i]t was explained that we had requested the meeting in order to explore a number of issues and conduct a risk assessment in light of the fact that a Crimewatch appeal would be broadcast on Wednesday 26th June 2002.*'<sup>109</sup> The note also recorded that:

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96 Witness statement of Person F11, MPS046816001, p2, 22 January 1999.

97 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp124-125, 07 March 2003.

98 2000 Murder Review Report, MPS020525001, p37, para 6.9.35, 06 October 2000.

99 Minutes of meeting at HMP Covingley with Person F11, MPS049613001, pp2-10, 20 September 2001.

100 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp13-14, 07 March 2003.

101 Minutes of meeting at HMP Covingley with Person F11, MPS049613001, p6, 20 September 2001.

102 Minutes of meeting at HMP Covingley with Person F11, MPS049613001, p6, 20 September 2001.

103 Letters from Person F11 to the Prison Service and his solicitor, MPS071585001, pp6-10, between 22 December 2000 and 16 January 2001.

104 In February 2008 during the following investigation the officer in charge of the original debrief process was asked to give a statement regarding the allegation that Person F11 had signed his statement under duress. D/Supt Roger Critchell stated that '*[h]e never made this allegation to me nor did he state that it was untrue or wrong in detail. In addition during this period he never made any adverse comments in respect of his debrief officers*'. See witness statement of D/Supt Roger Critchell, MPS078973001, p3, 26 February 2008.

105 Person F11's risk assessment, MPS049793001, 29 May 2002.

106 Person F11's risk assessment, MPS049793001, p2, 29 May 2002.

107 Person F11's risk assessment, MPS049793001, p2, 29 May 2002.

108 Action A160, '*Visit [Person F11] in prison to establish whether he is willing to give evidence or provide additional intelligence in relation to the murder of Daniel MORGAN*', MPS040445001, 01 June 2002.

109 Intelligence report, MPS048674001, p1, 26 June 2002.

*‘[Person F11] immediately stated that he did not want to get involved and would not give evidence against those individuals referred to in his statement to officers from the Anti-Corruption Group (CIB(3)).*

*‘[...]Despite his unwillingness to give evidence of this statement he confirmed that its content was correct and that Glen [sic] VIAN was a dangerous individual who was responsible for the murder.*

*‘[...]He added that no form of incentive would cause him to attend court and give evidence against VIAN et al. Indeed, [Person F11] stated that he would attend court and allege that he was forced to sign the statement, claiming that whilst being de-briefed by CIB(3) he had tape recorded a conversation with one of the officers alluding to this.’<sup>110</sup>*

48. Despite making clear his position in June 2002, Person F11 did have further contact with the Abelard One/Morgan Two Investigation team. On 23 July 2002, Person F11 telephoned DCS David Cook, and said that Person P9 had mentioned that on the night of Daniel Morgan’s murder he was supposed to be having a meal with James Cook at a public house. However, when James Cook turned up, he did not want to eat anything; he looked pale and just wanted to leave the area.<sup>111</sup>

49. On 03 October 2002 DCS David Cook reported a conversation he had had with Person F11 during which Person F11 provided information in confidence that he had been told by Person P9 that *‘the vehicle Cook and Vian used for the murder was a green VW Golf’*.<sup>112</sup> DCS Cook told Person F11 that the police had already received that information from Person P9.<sup>113</sup>

50. DCS David Cook recorded that Person F11 had contacted him on 04 October 2002 and said that he had spoken to Person P9 and told him that many people would support him if he made a statement, as James Cook was *‘not well liked’*.<sup>114</sup> He also recorded that Person F11 had said that Person P9 had told him that James Cook and Glenn Vian had been paid £3,000 each by Jonathan Rees to murder Daniel Morgan.<sup>115</sup>

### **5.1.2 Kevin Lennon**

51. In September 1987, Kevin Lennon (a former bookkeeper at Southern Investigations)<sup>116</sup> had provided information in a second statement to the Morgan One Investigation that, among other things, Jonathan Rees had asked him to arrange for Daniel Morgan to be murdered, and that Jonathan Rees had subsequently told him that he would get police officers from Catford Police Station to arrange or carry out the murder for £1,000 (see Chapter 1, The Morgan One Investigation). Kevin Lennon had also said that DS Sidney Fillery would become Jonathan Rees’s business partner after the murder.<sup>117</sup> Kevin Lennon had not approached the police

<sup>110</sup> Intelligence report, MPS048674001, p1, 26 June 2002.

<sup>111</sup> Telephone call from Person F11 to DCS David Cook, MPS059917001, p1, 23 July 2002.

<sup>112</sup> Intelligence report by DCS David Cook, MPS061354001, p3, 03 October 2002.

<sup>113</sup> Intelligence report by DCS David Cook, MPS061355001, p3, 04 October 2002.

<sup>114</sup> Intelligence report by DCS David Cook, MPS061356001, p3, 04 October 2002.

<sup>115</sup> Intelligence report by DCS David Cook, MPS061356001, p3, 04 October 2002.

<sup>116</sup> Witness statement of Kevin Lennon, MPS038987001, pp1 and 3, 02 December 1987.

<sup>117</sup> Witness statement of Kevin Lennon, MPS010520001, pp3-4, 04 September 1987.

voluntarily, but had been recorded saying these things to former DCI Laurence Bucknole.<sup>118,119</sup> When the recording had been played to Kevin Lennon on 21 August 1987, he had agreed that he had said these things.<sup>120,121</sup>

52. Kevin Lennon had appeared as a witness at the Inquest in April 1988<sup>122</sup> and had later been interviewed by DCS Alan Wheeler and DCI Paul Blaker.<sup>123,124</sup> In DCS Wheeler's second report concerning Kevin Lennon, he commented that Kevin Lennon added more detail than was in his earlier statements. This included disclosing that:

*'he approached an unnamed man regarding the murder proposition put to him by REES and this man recruited another called "John". A meeting was arranged for April, 1986 in a public house between he [sic], the two men and REES to arrange the murder. REES would have to supply £3,000 in advance but it was the intention of the men that REES would be "ripped off" and all three would receive £1,000 each. In any event REES did not attend.'*<sup>125</sup>

53. DCS Alan Wheeler's report concluded that after further investigation, Kevin Lennon's statements could not be corroborated.<sup>126</sup> DCS Wheeler's and DCI Paul Blaker's recollections are further explored in Chapter 3.

54. The 2000 Murder Review Report had concluded that in September 1987, when Kevin Lennon provided his second statement, he *'must have appreciated that if [he] gave useful information to the Investigation Team, a text may be offered to him at his forthcoming trial'*.<sup>127</sup> (A text in this context was information provided by police to a judge stating that a defendant had assisted them in a police investigation). Such a document was provided to the judge hearing the case against Kevin Lennon and he received a reduced sentence.<sup>128</sup> The report recommended that *'no action be taken to interview LENNON at this stage'*.<sup>129</sup> Notwithstanding this, the Abelard One/Morgan Two Investigation team decided to *'[v]isit Kevin LENNON [...] and get him to re-adopt his previous [witness statements] and obtain any further info known regarding the murder of Daniel MORGAN'*.<sup>130</sup>

55. On 28 June 2002, Kevin Lennon provided a witness statement to the Abelard One/Morgan Two Investigation. He stated, *'[f]urther to earlier statements that I have made to Police concerning the death of Daniel MORGAN, I stand by what I said, I am still willing to go to court and give evidence'*.<sup>131</sup>

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118 Witness statement of D/Supt Douglas Campbell, MPS010915001, pp8-9, 03 July 1989.

119 Transcript of taped conversation between Kevin Lennon and former DCI Laurence Bucknole, MPS011407001, 28 July 1987.

120 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p52, 07 March 2003.

121 Witness statement of DI Allan Jones, MPS005291001, p5, 20 July 1989.

122 Witness Kevin Lennon, examined by the Coroner and Counsel, INT000001001, pp15-42, Inquest Day One, 11 April 1988.

123 Report R4 of DCS Alan Wheeler regarding interview of Kevin Lennon on 28 July 1988, MPS022480001, 02 August 1988.

124 Report R4C of DCS Alan Wheeler regarding interview of Kevin Lennon on 01 September 1988, MPS022884001, 01 September 1988.

125 Final Report by DCS Alan Wheeler to the Police Complaints Authority, MPS060685001, p31, 04 September 1989.

126 Final Report by DCS Alan Wheeler to the Police Complaints Authority, MPS060685001, pp27-32, 04 September 1989.

127 2000 Murder Review Report, MPS020525001, p27, para 6.7.28, 6 October 2000.

128 2000 Murder Review Report, MPS020525001, p27, para 6.7.28, 06 October 2000.

129 2000 Murder Review Report, MPS020525001, p28, para 6.7.33, 06 October 2000.

130 Action A95, *'Visit Kevin LENNON N8 and get him to re-adopt his previous MG11s and obtain any further info known regarding the murder of Daniel MORGAN'*, MPS059503001, 24 June 2002.

131 Witness statement of Kevin Lennon, MPS062383001, 28 June 2002.

56. On 17 February 2003, two Detective Constables visited Kevin Lennon to explore whether he had been approached by former DS Alec Leighton,<sup>132</sup> and, to ask him to identify the two people about whom he had told the Hampshire/Police Complaints Authority (see paragraph 52 above), who were going to meet Jonathan Rees and Kevin Lennon at a public house.<sup>133</sup> Kevin Lennon did not disclose the identities of the two people. The report from the meeting stated that:

*'[o]verall Lennon did not come across as a particularly credible witness. He appeared to be guarded with his answers to our questions being both vague and evasive. Ultimately he was unwilling to substantiate anything additional he said on this occasion in the form of a witness statement.'*<sup>134</sup>

57. A/DCI Neil Hibberd and a Detective Constable visited Kevin Lennon again on 07 May 2003 to try and obtain a statement concerning the identities of the two men who, he had said, were to meet Jonathan Rees in a public house. Kevin Lennon stated that even though he knew the identity of the two people, he would not name them and that he would not make a statement about the issue.<sup>135</sup>

## 5.2 Targets for surveillance

58. The 2000 Murder Review Report had identified the need to investigate further Glenn Vian, Garry Vian, Person P9, James Cook and former DS Sidney Fillery.<sup>136</sup> DCI David Zinzan decided on 04 April 2001 *'to undertake a covert proactive operation to identify lifestyles, associates and current criminal activity'* of those five individuals.<sup>137</sup> It was decided on 05 April 2001 to research the five individuals, in order to obtain *'all intelligence reports held'* and to undertake *'surveillance to ascertain current lifestyle & associates'*.<sup>138,139,140,141,142</sup>

59. The 2000 Murder Review Report had also identified Jonathan Rees as the *'key suspect'* and recommended he should be placed under covert monitoring.<sup>143</sup> Surveillance of Jonathan Rees could not be undertaken because he was in prison following his conviction for perverting the course of justice in December 1999.<sup>144,145</sup>

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132 On 18 August 1999, during Operation Two Bridges, Jonathan Rees and former DS Alec Leighton had been heard conspiring to offer £2000 to Kevin Lennon to say in forthcoming civil proceedings that he had been put under pressure by the police to change his account.

133 Action A388, *'Visit LENNON to cover: (a) Any approach he may have had from Alec LEIGHTON regarding his evidence, (b) The identity of the two people / contract killers that they were going to meet at the pub..'*, MPS059827001, pp1 and 5, 12 February 2003.

134 Action A388, MPS059827001, pp1 and 5, returned 19 February 2003.

135 Action A409, *'Re-visit LENNON and obtain a statement covering the following: Who were the two men he arranged to meet in the pub that would be introduced to REES re the murder conspiracy'*, MPS059851001, p1, 30 April 2003.

136 2000 Murder Review Report, MPS020525001, pp49, 83-84 and 89, 06 October 2000.

137 Decision log, MPS040527001, p12, 04 April 2001.

138 Action A1, *'Research Glen [sic] VIAN. This is to include obtaining all intelligence reports held and undertaking surveillance to ascertain current lifestyle & associates'*, MPS040861001, 05 April 2001.

139 Action A2, *'Research Gary [sic] VIAN. This is to include obtaining all intelligence reports held and undertaking surveillance to ascertain current lifestyle & associates'*, MPS040862001, 05 April 2001.

140 Action A3, *'Research [Person P9]. This is to include obtaining all intelligence reports held and undertaking surveillance to ascertain current lifestyle & associates'*, MPS040863001, 05 April 2001.

141 Action A5, *'Research James COOK. This is to include obtaining all intelligence reports held & undertaking surveillance to ascertain current lifestyle & associates'*, MPS040866001, 05 April 2001.

142 Action A4, *'Research Sidney FILLERY. This is to include obtaining all intelligence reports held & undertaking surveillance to ascertain current lifestyle & associates'*, MPS040865001, 05 April 2001.

143 The 2000 Murder Review Report, MPS020525001, pp29-30, 06 October 2000.

144 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p76, 07 March 2003.

145 Police National Computer print out in respect of Jonathan Rees, MPS004001001, p3, 14 July 2009.



60. The 2000 Murder Review Report also recommended the covert monitoring of Glenn Vian and Garry Vian.<sup>146</sup> It concluded:

*'It is clear that Glen [sic] and Gary [sic] VIAN hold information regarding the events around the murder of Daniel MORGAN. They were both regarded as suspects during the original Metropolitan Police enquiry. In recent intelligence reports Glen [sic] VIAN has been named as the killer. The Review Group consider Glen [sic] and Gary [sic] VIAN to be worthy [sic] covert targeting to identify their current criminal activities, and that of their associates, to obtain levers that could be used to gain evidence against the killer/s of MORGAN.'*<sup>147</sup>

61. The 2000 Murder Review Report made no specific recommendations to covertly monitor Person P9, James Cook or former DS Sidney Fillery. However, they were considered by the Abelard One/Morgan Two Investigation to be justifiable targets for covert surveillance as detailed below:

- i. In relation to former DS Fillery, the Murder Review Report stated that because *'there is clearly the potential of compromise to the Metropolitan Police Service'*<sup>148</sup> his work, carried out while a member of the Morgan One Investigation, should be reviewed. Alastair Morgan and Isobel Hülsmann were determined that this should happen (see Chapter 12, The Treatment of the Family). However, former DS Fillery was not described in the report as a suspect, nor was it recommended that he should be placed under surveillance (see Chapter 5, The 2000 Murder Review).<sup>149</sup> The Abelard One/Morgan Two Investigation nevertheless decided to place him under surveillance *'to provide up to date intelligence relating to criminal associates and evidence relating to the murder'*.<sup>150</sup>
- ii. Person P9 was identified within the Murder Review Report as an individual who needed to be *'traced and interviewed regarding his knowledge of the murder'*.<sup>151</sup> The Abelard One/Morgan Two Investigation decided to place him under surveillance also, *'to establish his current association with other criminal associates and evidence/intelligence in relation to the murder investigation'*.<sup>152</sup>
- iii. The Murder Review Report recommended that *'full analysis of the movements and contacts of [James] COOK at the time be undertaken'*.<sup>153</sup> The Abelard One/Morgan Two Investigation decided to place him under surveillance to *'provide up to date intelligence relating to criminal associates and evidence relating to the murder'*.<sup>154</sup>

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146 2000 Murder Review Report, MPS020525001, p14, 06 October 2000.

147 2000 Murder Review Report, MPS020525001, p14, 06 October 2000.

148 2000 Murder Review Report, MPS020525001, p49, 06 October 2000.

149 2000 Murder Review Report, MPS020525001, pp3-92, 06 October 2000.

150 *'Surveillance Team briefing Package'*, MPS054083001, p9, 22 August 2001.

151 2000 Murder Review Report, MPS020525001, p84, 06 October 2000.

152 *'Briefing Sheet Surveillance Team'*, MPS047979001, p12, 11 July 2001.

153 2000 Murder Review Report, MPS020525001, p38, 06 October 2000.

154 Briefing package, James Cook, MPS053608001, p8, undated.

62. DCI David Zinzan had determined that *'[u]p to date intelligence will assist in determining the best way forward for a proactive enquiry'*.<sup>155</sup> Assessments were made of telephone bills to identify any association between the suspects.<sup>156,157,158,159,160,161,162,163,164,165</sup> Financial enquiries were made regarding Glenn Vian, Person P9 and James Cook.<sup>166</sup> At a later date, the Abelard One Morgan/Two Investigation also carried out checks on the Police National Computer for James Cook, former DS Sidney Fillery, Person P9 and Glenn Vian.<sup>167</sup> Aerial photographs were also taken of the home addresses of Person P9, James Cook, DS Fillery and Glenn Vian.<sup>168</sup>

### 5.3 Lifestyle surveillance

63. Lifestyle surveillance (recording of the movements, contacts and activities) of a suspect is often the first part of establishing what, if any, further and often more intrusive covert surveillance is required.

64. Assistance was provided to the covert side of the Abelard One/Morgan Two Investigation by an Operational Support team and by the surveillance team from the Anti-Corruption Group.<sup>169,170</sup>

65. Initial lifestyle surveillance at Glenn Vian's home address was conducted between April 2001 and early May 2001.<sup>171</sup> Similar observations commenced at the home of Person P9 in June 2001,<sup>172</sup> at the home of former DS Sidney Fillery in August 2001,<sup>173</sup> and at the home of James Cook in October 2001.<sup>174</sup>

66. DCI David Zinzan reported in October 2001 that surveillance of the subjects had not revealed any contact between them, other than that former DS Sidney Fillery had visited Jonathan Rees in prison.<sup>175</sup> DCI Zinzan noted also that *'[w]e know that SF [Sidney Fillery] considers himself to be one of our Commands [sic] most wanted subjects and under constant monitoring. We know that he has knowledge of anti-surveillance techniques. He has utilised this knowledge whilst under surveillance.'*<sup>176</sup>

155 Decision log, MPS040527001, p12, 04 April 2001.

156 Intelligence report in respect of a list of frequent calls made by Glenn Vian and Person P9 (last page apparently missing), MPS040566001, 04 May 2001.

157 Action A14, 'Obtain all relevant billing for Glen [sic] VIAN', MPS040336001, 14 May 2001.

158 Action A34, 'Research Billing obtained for 02086514140 re Glen [sic] VIAN for most frequently called numbers and submit same for subscribers [sic] checks', MPS040354001, 14 May 2001.

159 Phone billing, Garry Vian, MPS053455001, 23 April to 12 June 2001.

160 Action A15, 'Obtain all relevant Billing from [Person P9]', MPS040337001, 14 May 2001.

161 Action A35, 'Research Billing obtained for 02086680317 re [Person P9], for most frequently called numbers and submit same for subscribers [sic] checks,' MPS040355001, 14 May 2001.

162 Action A55, 'Obtain Billing for Sidney Fillery for last 3 months', MPS040369001, 13 June 2001.

163 Phone billing, former DS Sidney Fillery, MPS042544001, 20 April to 22 June 2001.

164 Action A56, 'Obtain billing for COOK for last 3 months', MPS040370001, 13 June 2001.

165 Phone billing, James Cook, MPS042543001, 20 April to 22 June 2001.

166 Minutes of office meeting, MPS040532001, p2, 08 May 2001.

167 Action A122, MPS040986001, p1, 23 February 2002.

168 Action A167, 'Arrange for aerial photographs of the homes of the VIAN, [Person P9], COOK and FILLERY', MPS041032001, p1, allocated 01 June 2002.

169 Briefing pack of former DS Sidney Fillery, MPS054083001, p9, 22 August 2001.

170 Minutes of office meeting, MPS040530001, p5, 23 April 2001.

171 Briefing pack of Glenn Vian, MPS053349001, pp4-5, 15 May 2001.

172 'Briefing sheet – [Person P9] surveillance commencing 11.7.01,' MPS046705001, pp19-20, 11 July 2001.

173 Briefing pack of former DS Sidney Fillery, MPS054083001, p8, 22 August 2001.

174 Briefing pack of James Cook, MPS053608001, pp5-6, 23 October to 05 November 2001.

175 Minutes of meeting with Isobel Hülsmann and Jane Morgan, MPS054195001, pp1 and 3, 10 October 2001.

176 Minutes of meeting with Isobel Hülsmann and Jane Morgan, MPS054195001, p3, 10 October 2001.



67. The intelligence available was credible, and appropriate decisions were made to conduct surveillance at this time. Although former DS Sidney Fillery was not mentioned as a suspect in the 2000 Murder Review, it was justified and proportionate that he was subjected to covert surveillance since he was *'suspected of being involved, if not actually being concerned in the event, it was thought that he passed information to REES during the early stages of the enquiry,*<sup>177</sup> *enabling him to keep ahead of the investigation'*.<sup>178</sup>

## 5.4 The installation of probes (surveillance equipment)

68. In 2001, surveillance equipment was installed in Glenn Vian's home address. Similar equipment was subsequently installed in Person P9's home and James Cook's car.<sup>179,180</sup> Attempts to deploy such equipment in former DS Sidney Fillery's home were unsuccessful, in part due to his awareness of surveillance techniques and his suspicion that such techniques might be used against him.<sup>181,182</sup>

## 5.5 Preparation of 'triggers'

69. During the long period of lifestyle surveillance on the suspects, preparatory work was undertaken designing 'triggers' which might prompt the key targets to discuss matters or make defensive moves.<sup>183</sup>

70. At a meeting on 05 June 2001, DCI David Zinzan had discussed whether there was any *'possible way forwards'* which might be used to prompt the key targets to discuss matters relating to Daniel Morgan's murder. He had proposed a feature on BBC's *Crimewatch* programme, which would include the announcement of a £50,000 reward for information about the murder. If this proved to be unsuccessful, he proposed a further trigger in the form of reporting a breakthrough regarding fingerprint evidence.<sup>184</sup>

71. On 03 July 2001, DCI David Zinzan wrote to DAC Andrew Hayman, through DCS Shaun Sawyer, requesting the authorisation of a reward of £50,000 for anyone who had information leading to the arrest and conviction of the murderer of Daniel Morgan. He wrote that *'[t]his investigation has been dogged by allegations of corruption and wrongdoing and I am sure an announcement of a £50,000 reward will demonstrate our commitment to solve this brutal murder'*.<sup>185</sup> DCS Sawyer and DAC Hayman submitted DCI Zinzan's report to Commander Roger Pearce, together with an endorsement of the request from DCS Sawyer and a statement of support from DAC Hayman.<sup>186,187</sup>

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177 The Panel understands this to refer to former DS Sidney Fillery's involvement in the Morgan One Investigation.

178 Report by DS Richard Oliver, MPS053364001, p5, 02 May 2001.

179 Minutes of meeting, MPS042608001, p2, 06 February 2002.

180 *'Operation Abelard Briefing Note'*, MPS049823001, p1, 09 July 2002.

181 *'Operation Abelard Briefing Note'*, MPS049823001, p1, 09 July 2002.

182 Minutes of meeting with Isobel Hülsmann and Jane Morgan, MPS054195001, p3, 10 October 2001.

183 Report by DCI David Zinzan to DAC Andrew Hayman, MPS042516001, p10, 03 July 2001.

184 *'Op Abelard Office Meeting 05/06/01'*, MPS040535001, p1, 05 June 2001.

185 Report by DCI David Zinzan to DAC Andrew Hayman, MPS042516001, p11, 03 July 2001.

186 Minute from DCS Shaun Sawyer to Commander Roger Pearce, MPS042516001, p12, 09 July 2001.

187 Minute from DAC Andrew Hayman to Commander Roger Pearce, MPS042516001, p13, 17 July 2001.

72. In late July 2001, DCI David Zinzan informed Alastair Morgan that DAC Andrew Hayman had authorised a reward of £50,000 which, subject to final clearance by Commander Roger Pearce, would be announced by the investigation during the proposed *Crimewatch* appeal.<sup>188</sup>

73. On 03 August 2001, the request for a £50,000 reward was rejected by Commander Roger Pearce. He determined that a reward of £10,000 could be made available, explaining that ‘[w]hilst I am naturally anxious to assist this enquiry, the absence of any more compelling reason other than “staleness” of the offence and family dissatisfaction with the investigation does not merit a sum exceeding £10,000 in this case’. He did, however, suggest that, ‘[g]iven the suggestion of corruption [...], DPS [Department of Professional Standards] may wish to augment this amount in order to achieve the desired aim of creating evidential opportunities’.<sup>189</sup>

74. On 24 August 2001, DCI David Zinzan wrote again to DAC Andrew Hayman, this time requesting a £20,000 reward.<sup>190</sup>

75. The reward was not discussed again until 15 April 2002, when a conference took place between Orlando Pownall QC, Counsel to the Crown Prosecution Service, two representatives from the Crown Prosecution Service, T/D/Supt David Zinzan and DS Richard Oliver, to discuss the proposed strategies for the new investigation.<sup>191,192</sup> Orlando Pownall QC commented, in his written opinion of 02 May 2002, that:

*‘although I am not invited to comment upon the proposed level of reward, I am bound to observe that in the current climate, a reward of £10,000 might be considered by the suspects and the public at large as derisory and unlikely to provoke a response. I am aware of the fact that much larger rewards have been offered in other unsolved murder investigations.’*<sup>193</sup>

76. At a meeting on 23 April 2002 between T/D/Supt David Zinzan, Isobel Hülsmann, Alastair Morgan and their solicitor, it was noted that both Isobel Hülsmann and Alastair Morgan had ‘expressed disgust at the “insulting” level set for the reward’.<sup>194</sup> Following this meeting, T/D/Supt Zinzan made a further request on 02 May 2002 for the sum of £10,000 to be reviewed.<sup>195</sup> On 16 May 2002, Commander Roger Pearce authorised a reward of £25,000,<sup>196</sup> and following further representations by T/D/Supt Zinzan the figure was increased to £50,000<sup>197</sup> on 17 June 2002.<sup>198</sup>

77. The reward of £50,000 was entirely appropriate, given the circumstances surrounding the murder, the concerns about possible police involvement and the allegations of police corruption. T/D/Supt David Zinzan’s perseverance, in pressing for nearly a year for a reward at this level, was commendable.

188 ‘Minutes of meeting with Alastair MORGAN’, MPS054194001, p1, 26 July 2001.

189 Minute from Commander Roger Pearce to DAC Andy Hayman, MPS042516001, p16, 03 August 2001.

190 Minute from DCI David Zinzan to DAC Andy Hayman, MPS042516001, p18, 24 August 2001.

191 ‘Notes of meeting 2 Hare Court’, MPS047325001, 15 April 2002.

192 T/D/Supt David Zinzan request to review reward offer, MPS042516001, pp22-23, 02 May 2002.

193 Advice by Orlando Pownall QC, MPS042516001, p32, para 18, 02 May 2002.

194 Report from T/D/Supt David Zinzan to Cmdr Roger Pearce, MPS042516001, p23, 02 May 2002.

195 Report from T/D/Supt David Zinzan to Commander Roger Pearce, MPS042516001, p20, pp22-23, 02 May 2002.

196 Minute from Cmdr Roger Pearce to DAC Andrew Hayman, MPS042516001, p26, 16 May 2002.

197 Minute from T/D/Supt David Zinzan to Cmdr Roger Pearce, MPS042516001, p28, 17 June 2002.

198 Minute from Cmdr Roger Pearce to T/D/Supt David Zinzan, MPS042516001, p29, 18 June 2002.

## 6 The 2002 *Crimewatch* appeal

78. As stated above, DCI David Zinzan had earlier proposed, on 05 June 2001, that an appeal on the BBC *Crimewatch* programme could be a useful event to trigger conversation and actions by those suspected of the murder of Daniel Morgan, which could then be covertly monitored.<sup>199</sup> At a management meeting on 06 February 2002, it was agreed that an approach be made to *Crimewatch* regarding an appeal to be broadcast later in the year.<sup>200</sup> An update from that meeting stated *'Crimewatch met and agreement to assist obtained. Date scheduled for programme is 26th June 2002. Further liaison to continue re content.'*<sup>201</sup>

79. On 06 March 2002, DCI David Zinzan and DS Richard Oliver met a representative from the Crown Prosecution Service and discussed the use of trigger events.<sup>202</sup> The representative wrote to DCI Zinzan on 07 March 2002 reporting that he had instructed Orlando Pownall QC to advise on the questions arising from the proposed investigative strategy.<sup>203</sup>

80. On 25 March 2002, DCI David Zinzan reported that *'[t]he main trigger event will be the BBC "Crimewatch" programme which is scheduled to be broadcast on Wednesday 26th June 2002. Exact details of its content have not yet been finalised. The BBC has asked that I re-approach them in early May to discuss this aspect.'*<sup>204</sup>

81. There was detailed discussion and consultation, both before<sup>205</sup> and after the formation of the Gold Group.<sup>206</sup> On 15 April 2002, a conference took place between Orlando Pownall QC, two representatives from the Crown Prosecution Service, T/D/Supt David Zinzan and DS Richard Oliver at which proposed strategies were discussed, and the importance of providing a sufficient trigger or triggers during the programme to generate discussion among the suspects as well as information from the general public was emphasised. It was agreed that the triggers devised should comply with legal and ethical requirements of the BBC and the Metropolitan Police and should not mislead *Crimewatch* (the programme) and its viewers.<sup>207</sup>

82. On 03 May 2002, advice was received from Orlando Pownall QC. The advice included the following matters for consideration:

*'[T]he first stage of the strategy will involve the announcement on Crimewatch of a reward for information leading to the arrest and conviction of those concerned in the murder of Daniel Morgan. This would present the opportunity of introducing a "mythical" informant whose introduction, it is hoped, will provoke a reaction from one or more of the suspects.'*<sup>208</sup>

*'There is in my judgment nothing unlawful in using a ruse as part of an evidence gathering exercise, particularly where other "reactive" police measures have proved unsuccessful. There is a potential risk that if the strategies referred to above bear fruit and result in charges being brought, argument would be advanced that the conduct of*

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199 Minutes of meeting, MPS040535001, p1, 05 June 2001.

200 Notes of meeting, MPS042608001, p2, 06 February 2002.

201 Notes of meeting, Update, MPS053337001, p1, 07 March 2002.

202 Notes of meeting with Crown Prosecution Service, MPS053655001, 06 March 2002.

203 Letter from Crown Prosecution Service to DCI David Zinzan enclosing notes of meeting, MPS047345001, p1, 07 March 2002.

204 Report from DCI David Zinzan to D/Supt Stephen Condon regarding the *'Operation Abelard Proactive phase'*, MPS048939001, p1, 25 March 2002.

205 Letter from DCI David Zinzan, MPS042610001, 13 March 2002.

206 Report from Metropolitan Police Legal Services, MPS047338001, p2, 24 June 2002.

207 *'Notes of meeting at 2 Hare Court'*, MPS047325001, 15 April 2002.

208 Counsel advice by Orlando Pownall QC, MPS053460001, pp1-2, 02 May 2002.

*the police was an abuse of process. In my view, on the available information, it could not successfully be argued that the strategy of using a “mythical” informant would involve a manipulation or misuse of the court process so as to deprive a defendant of a protection provided by law or to take unfair advantage of a technicality.*<sup>209</sup>

*‘I feel that Crimewatch should be informed as to the strategy proposed and agree to its implementation.*<sup>210</sup>

*‘I do not however feel that the mere fact that Crimewatch was unaware of what was happening would necessarily prove fatal to the admissibility of any resulting evidence.*<sup>211</sup>

83. On 17 May 2002, the Gold Group approved the proposal ‘for a telephone call to be made into Crimewatch, purporting to represent a witness or an informant wishing to pass on new information concerning the murder’ (this information had actually been received in 1999), and agreed that DCS David Cook would ‘overtly lead the re-investigation and appear on the Crimewatch programme’<sup>212</sup> and that the Crimewatch appeal would be preceded by ‘a release in the local press announcing a re-investigation of the murder and publicising a Crimewatch programme’.<sup>213</sup>

84. A/DCI Neil Hibberd stated in his decision log that ‘[i]t is hoped that this appeal, fronted by DCS COOK, will generate activity and discussion involving the suspected individuals’.<sup>214</sup>

85. On 28 May 2002, a meeting was held attended by the Crimewatch producers, and DCS David Cook, T/D/Supt David Zinzan and DS Richard Oliver. The date for the Crimewatch broadcast was confirmed as 26 June 2002,<sup>215</sup> and it was agreed that the controversial background to the case, the allegations of corruption, could be acknowledged during the programme.<sup>216</sup>

86. The BBC agreed to ‘allude to the controversial past of the case’ but with the recognition ‘that the BBC is not being used but is genuinely trying to achieve a result for the family’.<sup>217</sup> The BBC was keen ‘[t]o reassure the family that [they were] committed to produce the most accurate picture of Daniel’.<sup>218</sup> (Members of Daniel Morgan’s family had been very upset by the portrayal of Daniel Morgan in the first Crimewatch appeal, aired in April 1987; see Chapter 12, The Treatment of the Family).

87. By 28 May 2002, a month before the screening of Crimewatch, there had been discussion among senior officers and the producers of Crimewatch about releasing information received in 1999 regarding a vehicle used during the murder.<sup>219</sup> T/D/Supt David Zinzan said that ‘[t]his will be the catalyst which will hopefully make the suspects react, also the 50K reward we hope will bring in some genuinely new information’.<sup>220</sup>

209 Counsel advice by Orlando Pownall QC, MPS053460001, p2, 02 May 2002.

210 Counsel advice by Orlando Pownall QC, MPS05346001, p2, 02 May 2002.

211 Counsel advice by Orlando Pownall QC, MPS05346001, p2, 02 May 2002.

212 Minutes of Gold Group meeting, MPS042643001, p7, 17 May 2002.

213 Minutes of Gold Group meeting, MPS042643001, p7, 17 May 2002.

214 ‘SIO Sensitive Decision Log’, MPS072551001, p4, decision taken 23 May 2002, date on decision 05 July 2002.

215 Minutes of meeting with Crimewatch, MPS054198001, p3, 28 May 2002.

216 Minutes of meeting with Crimewatch, MPS054198001, p1, 28 May 2002.

217 Minutes of meeting with Crimewatch, MPS054198001, p3, 28 May 2002.

218 Minutes of meeting with Crimewatch, MPS054198001, p3, 28 May 2002.

219 Minutes of meeting with Crimewatch, MPS054198001, p2, 28 May 2002.

220 Minutes of meeting with Crimewatch, MPS054198001, p2, 28 May 2002.

88. After a full discussion, the BBC production team agreed to prepare a script for the filmed reconstruction, which was part of the appeal, which would satisfy the legal and ethical requirements of the BBC and the Metropolitan Police.<sup>221</sup>

89. On 29 May 2002, at a Gold Group meeting, the following decisions were made:

- i. The trigger strategies were agreed subject to written approval by the Crown Prosecution Service.<sup>222</sup>
- ii. The *Crimewatch* script was agreed and T/D/Supt Zinzan was instructed to show the script to the Crown Prosecution Service and Orlando Pownall QC.<sup>223</sup>
- iii. Newspaper articles would publicise the forthcoming *Crimewatch* appeal and the existence of the £50,000 reward.<sup>224</sup>
- iv. The Gold Group asked for necessary risk assessments. These were subsequently completed.<sup>225,226,227,228,229,230,231,232</sup>

90. Following the Gold Group meeting on 29 May 2002, T/D/Supt Zinzan produced a document entitled '*Proposed trigger strategies*' which set out the following:

- i. The programme would include a reconstruction and a personal appeal from the family of Daniel Morgan.
- ii. Publicity about the forthcoming *Crimewatch* programme would be provided beforehand in the media to ensure the suspects had knowledge of the programme and possibly be the cause of conversation.
- iii. During the BBC follow-up programme, which always occurred later in the evening after the initial *Crimewatch* appeal, there should be an announcement by DCS David Cook that '*some calls have been received and that they have received some information that he is particularly interested in concerning a possible get-away vehicle*'.<sup>233</sup>

91. The document was sent to the Crown Prosecution Service on 30 May 2002 formally requesting their views on the legality of the proposals.<sup>234,235</sup> On 31 May 2002, T/D/Supt David Zinzan recorded that the Crown Prosecution Service were in agreement with the trigger strategies, but that he required a definitive answer in writing from them.<sup>236</sup>

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221 Fax to DS Richard Oliver from BBC *Crimewatch* enclosing script to be used in the Daniel Morgan murder appeal, MPS042625001, 14 June 2002.

222 Minutes of Gold Group meeting, MPS049790001, pp1-2, 29 May 2002.

223 Minutes of Gold Group meeting, MPS049790001, p1, 29 May 2002.

224 Minutes of Gold Group meeting, MPS042643001, p7, 17 May 2002.

225 Minutes of Gold Group meeting, MPS049790001, p3, 29 May 2002.

226 Risk assessment BBC *Crimewatch* ruse, MPS053830001, 24 June 2002.

227 Risk assessment of Person F11, MPS049816001, 29 May 2002.

228 Risk assessment of Person P9, MPS049855001, 24 May 2002.

229 Risk assessment of Isobel Hülsmann, MPS053734001, 10 June 2002.

230 Risk assessment, MPS049861001, pp1-4, 24 June 2002.

231 Action A171, '*Prepare current Risk assessment for [...]. Include children, schools, etc. D3 refers*', MPS041036001, p1, 01 June 2002.

232 Action A172, '*Prepare Risk Assessment in relation to the Golden Lion Public House*', MPS041037001, 01 June 2002.

233 Proposed trigger strategies, by T/D/Supt David Zinzan, MPS047337001, pp7-8, 30 May 2002.

234 Fax from T/D/Supt David Zinzan to Crown Prosecution Service, MPS047337001, p6, 30 May 2002.

235 Proposed trigger strategies, by T/D/Supt David Zinzan, MPS047337001, p8, 30 May 2002.

236 Minutes of meeting, MPS040542001, 31 May 2002.



92. On 12 June 2002, a representative of the Crown Prosecution Service stated that both the Crown Prosecution Service and Orlando Pownall QC did not foresee ‘*any insuperable evidential difficulties*’ in any future trial.<sup>237</sup> This was significant given that the information which was to be disclosed about the getaway car was not new information but had been received in January 1999 (see Chapter 4, Operation Nigeria/Two Bridges).

93. On 24 June 2002, T/D/Supt David Zinzan sought and received assurance from the Metropolitan Police Directorate of Legal Services as to the legality of his proposals. His proposals involved stating that ‘*a caller purporting to have information telephones the Major Incident Room (MIR) and Crimewatch*’ (this referred to the information which had been received in 1999).<sup>238</sup>

94. On 25 June 2002, T/D/Supt David Zinzan wrote to DCS Shaun Sawyer, stating that ‘*[n]o telephone call will be made into either the Major Incident Room (MIR) or Crimewatch. DCS Cook will state during the update part of the programme that he has received information about a vehicle that he is interested in. To cover this information coming into the MIR DI Hibberd will place a message in the system purporting to come from an anonymous female.*’<sup>239</sup> This was done.<sup>240</sup>

95. With surveillance of the key suspects in place, the Abelard One/Morgan Two Investigation and the supporting Gold Group developed a wholly appropriate series of ‘triggers’, or ‘prompts’, including the announcement of a £50,000 reward, a high-profile televised appeal for information preceded by newspaper articles advertising the television appeal, and statements indicating that intelligence was coming in suggesting that the police were making evidential progress. It was hoped that these might prompt the suspects to reveal any information they may have had in relation to the murder of Daniel Morgan, or that witnesses might come forward.

96. The Abelard One/Morgan Two Investigation and the supporting Gold Group also took every care to ensure that the prosecution authorities accepted the surveillance/trigger strategy which had been devised to generate new evidence which might enable a prosecution or prosecutions to be brought, so that evidence would not be compromised and would be admissible at any resulting criminal trial. This matter was handled well. Members of Daniel Morgan’s family were kept well informed about the evolving investigative strategy.

237 Letter from Crown Prosecution Service to T/D/Supt David Zinzan, MPS048550001, 12 June 2002.

238 Letter from T/D/Supt David Zinzan to Directorate of Legal Services, MPS047338001, p1, 24 June 2002.

239 Report from T/D/Supt David Zinzan to DCS Shaun Sawyer, MPS047338001, p3, 25 June 2002.

240 Message M7, MPS059867001, 26 June 2002.

## 7 The *Crimewatch* programme and the first period of covert surveillance

97. On 24 June 2002, the Metropolitan Police issued a press release, embargoed until 00.01 am 25 June 2002.<sup>241</sup> On 25 June 2002, articles appeared in the *Evening Standard*<sup>242</sup> and *South London Press*<sup>243</sup> newspapers, publicising the reinvestigation, the availability of the £50,000 reward and the fact that the case would be featured the next day on *Crimewatch*.<sup>244</sup> The *Crimewatch* programme was broadcast as scheduled on 26 June 2002 at 9.00 pm. The *Crimewatch* update programme was broadcast at 10.35 pm the same evening.

98. The programme comprised a filmed reconstruction of events at the Golden Lion public house on the evening of 10 March 1987. During depictions of Daniel Morgan having a drink with Jonathan Rees and the discovery of his body in the car park behind the Golden Lion public house, there was a filmed voice-over appeal from Isobel Hülsmann, his mother, for members of the public to come forward with information. Before and after the filmed reconstruction, Nick Ross, the *Crimewatch* co-presenter, set the scene regarding the investigation of Daniel Morgan's murder, and, in conversation with DCS David Cook, the existence of the £50,000 reward was stressed. It was stated that police needed to learn more about a getaway car, which was shown leaving the car park in the film reconstruction.

99. During the *Crimewatch* update programme, Fiona Bruce, the other *Crimewatch* co-presenter, stated:

*'We're getting some very good information [...] a number of people [...] who have very good leads [...] We'll be following those up straight away.'*<sup>245</sup>

100. Following this, DCS David Cook said that he was pleased with the responses which had been received. He said that some callers had mentioned the 'same person', and that '*the good thing is some people have given contact numbers for us to get back to them, so [there is the] possibility of some witnesses there*'. DCS Cook was then asked about some information which had been received about a car, to which he responded that there was a '*particularly good piece of information about the car that was possibly involved in this and what's happened to it and it's put a big smile on my face*'.<sup>246</sup>

101. In addition to the information stated above, responses were received from a number of viewers who contacted the BBC claiming to have new information relating to Daniel Morgan's murder. These were then investigated. Some information received as a result of the *Crimewatch* programme was found, in the Panel's view correctly, to lack substance (for example, information received from a caller with psychic insights).<sup>247,248</sup> Nothing of benefit to the investigation was identified as a consequence of these calls.

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241 Copy of press office account up to 25 September 2007, MPS103631001, pp73-74, undated.

242 *Evening Standard*, '£50,000 Reward As Axe Murder Case Reopens', by Philip Nettleton, MPS061317001, 25 June 2002.

243 *South London Press*, 'Private Eye Murder Case Is Reopened', unknown author, MPS061334001, 25 June 2002.

244 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p77, 07 March 2003.

245 Recording of BBC's *Crimewatch* screened on 26 June 2002, viewed by the Panel.

246 Recording of BBC's *Crimewatch* screened on 26 June 2002, viewed by the Panel.

247 Letter from a psychic, MPS061472001, pp4-5, 21 October 2002.

248 Action A129, 'Interview [...] N129 re information of the murder of MORGAN N1 TST if required', MPS059541001, 03 July 2002.



102. The *Crimewatch* appeal broadcast on 26 June 2002 was of high quality and its delivery was professional. The inclusion in the programme of the appeal for information by Isobel Hülsmann, Daniel Morgan's mother, greatly enhanced the emotional impact of the programme, and, in contrast to the *Crimewatch* appeal broadcast in April 1987 as part of the Morgan One Investigation, the close involvement of Daniel Morgan's family ensured that the reconstructed representation of Daniel Morgan was, on this occasion, more sympathetic and accurate.

## 7.1 Callers who mentioned current and former police officers

103. While some calls referred to unidentified individuals, several calls were received, some anonymous, which referred to former police officers having had knowledge of Daniel Morgan's murder. DC Duncan Hanrahan, a former police officer, who in March 1999 had been sentenced to more than eight years' imprisonment for serious criminal offences, and who was known to James Cook and Person P9,<sup>249,250</sup> was alleged by one caller to have provided an alibi for Jonathan Rees.<sup>251,252</sup> Nothing useful came out of this line of enquiry.

104. One caller claimed to know a South London criminal who had said that Daniel Morgan's murder was connected to 'a detective who committed suicide', the name of whom given was 'Paddy Holmes' (the Panel believes this to be DC Alan 'Taffy' Holmes – see Chapter 1, The Morgan One Investigation), and the caller claimed also to have been informed by a relative that the murder was connected to the gold bullion robbery (the Panel believes this was reference to the notorious Brink's-Mat robbery that was carried out in November 1983).<sup>253,254</sup> Police visited the named South London criminal who had no information about Daniel Morgan's murder, although he had heard about it.<sup>255</sup> Further research was conducted in the computerised investigation system in relation to DC Holmes. T/D/Supt David Zinzan examined the file relating to DC Holmes which was held at the Directorate of Professional Standards, but no information was discovered to link the death by suicide of DC Holmes to the murder of Daniel Morgan.<sup>256</sup>

## 7.2 Caller who mentioned David Bray

105. Another caller claimed to have heard David Bray (who had worked with Daniel Morgan) and his father talking about Daniel Morgan's murder.

106. A detective went to speak to the caller on 29 June 2002. The caller stated that 'while having tea one day and in front of Daniel MORGAN, David [BRAY] said to his Father, it is all arranged, it is going to happen in a couple of weeks'.<sup>257</sup> The caller went on to state that 'it was

249 2000 Murder Review Report, MPS020525001, p33, 6 October 2000.

250 Letter to Duncan Hanrahan from CIB3 regarding forfeiture provisions of the police pensions regulations 1987, HOM000064001, p1, undated.

251 Message M27, MPS059887001, p1, 26 June 2002.

(The caller referred to another officer, 'Alex LEIGHTON'. An action was raised to research LEIGHTON but was referred on 09 June 2003 where it was concluded that, 'Conducting research on LEIGHTON adds no value to the investigation at this time', MPS102246001, p18, 09 June 2003).

252 Message M27, MPS059877001, p1, 26 June 2002.

253 Message M10, MPS059870001, p1, 26 June 2002.

254 Action A128, 'Interview [...] N130 re information forwarded to Crimewatch TST if necessary', MPS059540001, 12 July 2002.

255 Action A163, 'TI [...] N231 re knowledge of the murder of MORGAN N1', MPS059584001, 03 September 2002.

256 Action A165, 'Research HOLMES N233 an ex-police officer apparently committed suicide, Establish any link to the murder of MORGAN N1', MPS059586001, 03 September 2002.

257 Message M28, MPS059888001, p1, 01 July 2002.

*apparent that Daniel didn't know what was being said'*.<sup>258</sup> A couple of weeks later Daniel Morgan was murdered and the caller had recalled the conversation. The caller had '*challenged*' David Bray's father about what had been overheard. The father had responded that he had already challenged his son, David Bray, who had said that '*he had nothing to do with it*'.<sup>259</sup> The caller was in fear of David Bray's father and stated that he was very violent. The caller also stated that the *Crimewatch* appeal had prompted a decision to contact the police, the conversation having played on the caller's mind for years.<sup>260</sup> Nothing of use to the investigation emerged from these enquiries.

### 7.3 Callers who mentioned Jonathan Rees

107. Three callers said that they had information relating to Jonathan Rees.<sup>261,262,263</sup> One anonymous caller stated that someone close to Jonathan Rees's family had told him that Jonathan Rees was the murderer.<sup>264,265</sup> This caller was subsequently located by police. When interviewed by a police officer, the caller said that he used to work with an individual who was close to Jonathan Rees. While drunk, that individual had reportedly told the caller that he believed that Jonathan Rees was the murderer. The individual had reportedly asked Jonathan Rees if he had committed the murder, and Jonathan Rees had allegedly laughed and replied, '*[t]hank goodness for dustbin bags*'.<sup>266</sup> The caller claimed that two colleagues overheard this conversation. One was traced and interviewed by police but had no knowledge of such a conversation, the other was not traced.<sup>267,268,269,270</sup>

108. Of the two other callers who also gave the name of Jonathan Rees,<sup>271,272</sup> one caller had said that former DC Austin Warnes (a police officer who had been convicted in 2000 with Jonathan Rees of perverting the course of justice and conspiracy to plant Class A drugs on the wife of Simon James; see Chapter 4, Operation Nigeria/Two Bridges), had said that Jonathan Rees had admitted being responsible to him. It is unclear what this meant.<sup>273</sup> Former DC Austin Warnes was visited in prison but denied having met or spoken to Jonathan Rees<sup>274</sup> (despite

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258 Message M28, MPS059888001, p1, 01 July 2002.

259 Message M28, MPS059888001, p1, 01 July 2002.

260 Message M28, MPS059888001, p1, 01 July 2002.

261 Message M12, MPS059872001, p1, 26 June 2002 and Action A111, '*Contact [...] N131 and ascertain if he has any useful information re incident TST if necessary*', MPS059522001, 09 July 2002.

262 Message M29, MPS059889001, p1, 26 June 2002 and Action A121, '*Interview WALMSESLEY (WARNES) N154 re knowledge of the murder of MORGAN N1*', MPS059533001, p4, 31 July 2002.

263 Message M14, MPS059874001, p1, 26 June 2002 and Action A138, '*Identify area which uses 01964 and establish if any useful information re MECHANIC N174*', MPS059551001, 08 August 2002.

264 Message M33, MPS059893001, p1, 26 June 2002.

265 Message M14, MPS059874001, p1, 26 June 2002.

266 Action A138, '*Identify area which uses 01964 and establish if any useful information re MECHANIC N174*', MPS059551001, 03 February 2003.

267 Action A138, '*Identify area which uses 01964 and establish if any useful information re MECHANIC N174*', MPS059551001, 03 February 2003.

268 Action A384, '*Trace and interview [...] N466 re his knowledge of Daniel MORGAN's N1 murder*', MPS059823001, 12 June 2003.

269 Message M181, MPS060041001, 09 June 2003.

270 Action A385, '*Trace and interview [...] N467 re her knowledge of Daniel MORGAN's N1 murder*', MPS059824001, 12 June 2003.

271 Message M29, MPS059889001, p1 26 June 2002 and action A121, '*Interview WALMSESLEY (WARNES) N154 re knowledge of the murder of MORGAN N1*', MPS059533001, p4, 31 July 2002.

272 Message M12, MPS059872001, p1, 26 June 2002 and action A111, '*Contact [...] N131 and ascertain if he has any useful information re incident TST if necessary*', MPS059522001, p1, 09 July 2002.

273 Message M29, MPS059889001, p1, 26 June 2002 and action A121, '*Interview WALMSESLEY (WARNES) N154 re knowledge of the murder of MORGAN N1*', MPS059533001, p4, 31 July 2002.

274 Message M29, MPS059889001, p1. 26 June 2002 and action A121, '*Interview WALMSESLEY (WARNES) N154 re knowledge of the murder of MORGAN N1*', MPS059533001, p4, 31 July 2002.

being Jonathan Rees's co-defendant when he was prosecuted for perverting the course of justice; see Chapter 4, Operation Nigeria/Two Bridges). The information provided by the other caller did not assist the investigation.<sup>275</sup>

109. The public response to the *Crimewatch* appeal was modest. However, 15 years had elapsed since the murder. The Abelard One/Morgan Two Investigation pursued every lead which arose from the information received, but none of these progressed the investigation.

#### 7.4 Former DC Noel Cosgrave's response to the *Crimewatch* broadcast

110. Former DC Noel Cosgrave contacted the programme. He had been one of the first officers to arrive at the scene of Daniel Morgan's murder but was not part of the Morgan One Investigation. He said that the '[i]nvestigation was cocked up by DS Malcolm Davidson' and that he wished to speak to the current investigation.<sup>276</sup>

111. The Abelard One/Morgan Two Investigation team contacted former DC Noel Cosgrave.<sup>277</sup> The following was recorded:

- i. That '*he saw the body [of Daniel Morgan] lying on the floor and a cursory glance showed the motive wasn't robbery as he had a big wad of money in his pockets*'.

The Morgan One Investigation only discovered the money in Daniel Morgan's pocket when they extensively examined his body. The money was not discovered by a '*cursory glance*'; the money was hidden in his pocket.

- ii. That '*he called for the assistance of Supt. Douglas CAMPBELL (AMIP) [Area Major Incident Pool], who turned up pissed then ordered a bottle of Scotch from the bar. COSGRAVE had words with Campbell about this and was told to piss off the enquiry.*'

This matter is dealt with below. There is no evidence to substantiate this allegation.

- iii. '*As far as COSGRAVE is concerned the axe was never dusted for fingerprints.*'

The Morgan One Investigation examined the axe for fingerprints.

<sup>275</sup> Message M12, MPS059872001, p1, 26 June 2002 and action A111, 'Contact [...] N131 and ascertain if he has any useful information re incident TST if necessary', MPS059522001, p1, 09 July 2002.

<sup>276</sup> Message M25, from former DC Noel Cosgrave, MPS059885001, p1, 26 June 2002.

<sup>277</sup> Message M25, from former DC Noel Cosgrave, MPS059885001, p1, 26 June 2002.

- iv. Former DC Noel Cosgrave was asked whether Daniel Morgan had been wearing a watch and stated that *'he is sure he was'*.

Former DC Noel Cosgrave's evidence as to whether Daniel Morgan had been wearing a watch changed over time.

- v. Former DC Cosgrave said that he was *'certain FILLERY, FOLEY and PURVIS who were arrested at the time were not involved'*.
- vi. *'COSGRAVE still telephones FILLERY occasionally for a chat.'*

The fact that former DC Noel Cosgrave was friendly with former DS Sidney Fillery at the time calls into question the integrity of his statement.

112. DC Noel Cosgrave had made four previous statements, on 27 May 1987,<sup>278</sup> 22 June 1988,<sup>279</sup> 04 October 1988<sup>280</sup> and 19 April 1989.<sup>281</sup> In the first three statements he had made no mention of a watch on Daniel Morgan's body. In his statement of 19 April 1989, he had been *'unable to say if there was a wristwach [sic] on MORGAN's body'*.

113. In a statement<sup>282</sup> made on 06 August 2002 to the Abelard One/Morgan Two Investigation, former DC Noel Cosgrave said the following:

- i. He had seen a bracelet watchstrap on Daniel Morgan's left hand.
- ii. When D/Supt Douglas Campbell arrived at the Golden Lion public house,
- 'he immediately entered the bar area and ordered a bottle of scotch. I then approached him at the bar and noticed that he was already inebriated. I suggested that he hand the case over to another senior officer. He didn't take kindly to my words and told me to leave.'*

Alastair Morgan had told the Inquest that Jonathan Rees had informed him that D/Supt Campbell had been drunk at the murder scene.<sup>283</sup> D/Supt Campbell had declined to comment on this as it was due to be fully investigated by DCS David Lamper.<sup>284</sup> However, no complaint had been received from Jonathan Rees that D/Supt Campbell had been drunk at the murder scene and therefore DCS Lamper, who was investigating complaints made by Jonathan Rees, did not investigate this matter (see Chapter 1, The Morgan One Investigation). The matter was not investigated by the Abelard One/Morgan Two Investigation, as it was not conducting

278 Witness statement of DC Noel Cosgrave, MPS010678001, MPS017993001, 27 May 1987.

279 Witness statement of DC Noel Cosgrave, MPS038421001, 22 June 1988.

280 Witness statement of DC Noel Cosgrave, MPS034106001, 04 October 1988.

281 Witness statement of DC Noel Cosgrave, MPS024396001, 19 April 1989.

282 Witness statement of former DC Noel Cosgrave, MPS062385001, p3, 06 August 2002.

283 Witness D/Supt Douglas Campbell, examined by the Coroner, INT000005001, p11, Inquest Day Five, 15 April 1988.

284 Witness D/Supt Douglas Campbell, examined by the Coroner, INT000008001, p109, Inquest Day Eight, 25 April 1988.

enquiries into the conduct of D/Supt Campbell. The Panel has examined the evidence which is available and has found nothing to corroborate the assertion that D/Supt Campbell had been drunk at the murder scene.

- iii. Approximately three or four weeks after Daniel Morgan's murder, former DC Noel Cosgrave's son brought a friend home called David Bray.<sup>285</sup> The son had informed his father that David Bray had worked with Daniel Morgan. David Bray, former DC Cosgrave, and his son had been having a conversation outside former DC Cosgrave's home when David Bray had opened the boot of his car. Inside was an axe identical to the axe used in Daniel Morgan's murder with identical sticky plaster around the handle.<sup>286</sup> Former DC Cosgrave stated that he had later informed the Morgan One Investigation of what he had seen.<sup>287</sup>

In fact, DC Noel Cosgrave made his report to the Morgan One Investigation some nine or ten months after the alleged incident. DS Malcolm Davidson had recorded the message from DC Cosgrave as follows: *'I have been given information that David BRAY who was an associate of Danny Morgan that he [sic] carries three axes in the boot of his Ford Granada gold coloured. I don't know the index.'*<sup>288</sup>

The effect of the information submitted by DC Noel Cosgrave was to suggest that David Bray had three axes in his car and may have had a motive to murder Daniel Morgan, who was killed with an axe.

When asked about this by the investigation, David Bray denied having carried an axe in his car at any time.<sup>289</sup> DC Noel Cosgrave's son was asked about his knowledge of the incident and the axe allegedly seen by him and his father in the boot of a car owned by David Bray.<sup>290</sup> On 16 June 2003, the son said that he was a good friend of David Bray but he had not seen him for about 12 years.<sup>291</sup> He stated that he had never seen an axe in the back of his car and could not assist the police in any way in relation to the murder.

None of the information received from former DC Noel Cosgrave provided any new lines of enquiry for the Abelard One/Morgan Two Investigation.

114. The 2000 Murder Review had recommended that Daniel Morgan's watch should be recorded on the Crime Reporting Information System (CRIS) as having been stolen.<sup>292</sup> This was done.<sup>293</sup> The watch has never been found.

285 Witness statement of DC Noel Cosgrave, MPS062385001, p24, 06 August 2002.

286 Witness statement of DC Noel Cosgrave, MPS062385001, p24, 06 August 2002.

287 Witness statement of DC Noel Cosgrave, MPS062385001, p24, 06 August 2002.

288 Message M751, MPS012811001, 29 February 1988.

289 Action A191, MPS059617001, p1, 21 May 2003.

290 Action A190, MPS059616001, p1, 28 April 2003.

291 Action A190, MPS059616001, p1, 16 June 2003.

292 2000 Murder Review Report, MPS020525001, p76, para 8.3.2, 06 October 2000.

293 Action A103, MPS059514001, p1, 03 September 2002.



## 7.5 25 June to 12 July 2002: The response of five individuals under surveillance to the £50,000 reward and the *Crimewatch* programme

115. The Panel has had full access to the surveillance tapes and the transcripts of the recorded conversations of Glenn Vian, Garry Vian, former DS Sidney Fillery, James Cook and Person P9. Several of the recorded conversations clearly indicate interest in the BBC *Crimewatch* appeal. However, the individuals talked in only general terms about the programme and the murder.<sup>294</sup> No person admitted carrying out the murder or gave any specific details relating to the murder.

116. The quality of many, but not all, of the tapes was very poor.<sup>295</sup> On occasion people spoke at the same time and there was a great deal of background noise indicating domestic activity<sup>296</sup> and radio noise.<sup>297</sup> The quality of the transcriptions also varied. Two officers each transcribed the same recording in an attempt at greater accuracy than might be possible if only one officer was recording, but on occasion what they heard differed. When the tapes were subsequently enhanced for clarity there were also some different interpretations of what was heard.<sup>298</sup>

117. On 25 June 2002, before the *Crimewatch* broadcast but following the announcement in the press that the programme appeal was to be made,<sup>299</sup> a conversation was picked up from surveillance of Glenn Vian's household.<sup>300</sup> The conversation was not specific and disclosed no new lines of investigation, but it was later referred to in DCS David Cook's advice file '*because of its content*'.<sup>301</sup> Glenn Vian was recorded as saying to his wife, Kim Vian:

*"I know I wouldn't get life or twenty years d'ya know what I'm saying?" Unreadable. "About one and a half d'ya know what I mean?" Unreadable. "I've lost a lot of money ain't I?" Unreadable. "D'ya know what I mean?" Unreadable. "You know I'm not a fucking muppet don't ya".*<sup>302</sup>

118. Also, on 25 June 2002, the audio probe in James Cook's vehicle recorded a conversation between him and an unknown male in which James Cook was reported as saying:

*'They have to fucking stand in the dock and fucking point the finger ain't they. Pause.*

*'They can't do us by just a little bit of verbal, they've got to go in sit in that dock [...] they are hoping someone's going to come out of the woodwork and be willing to sit, be willing to sit in the dock and point the finger because (inaudible) that's how they're bloody going to get their money, you know what I mean, they don't give you the money on a "Oh yeah well it's him see you later, can I have me fucking money", they're gonna have to (inaudible) they're gonna have to fucking relocate them somewhere ain't they, 'cos they'll only put (inaudible) they put the other one away and there's one out ain't there, you know what I mean.*<sup>303</sup>

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294 Audio summary, MPS055888001, 26 June 2002.

295 Audio summary, MPS044184001, 25 June 2002.

296 Audio summary, MPS044076001, 25 June 2002.

297 Audio summary, MPS050005001, 26, June 2002.

298 For example, '*It's 80 percent Sid's fault (? his fault)* [sic]', from Audio Summary, MPS000779001, 01 October 2002. During the Abelard Two Investigation, an enhancement of the recording, document D1324, was produced. It was found that what had actually been said was '*it's 80 percent kids films*' instead of '*it's 80 percent Sid's fault*', MPS103417001, p3, (enhancement not dated).

299 South London Press, '*Private Eye Murder Case Is Reopened*', unknown author, MPS061334001, 25 June 2002.

300 Audio summary, MPS061072001, p1, 25 June 2002.

301 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p78, 07 March 2003.

302 Audio summary, MPS061072001, 25 June 2002.

303 Audio summary, MPS000773001, p2, 25 June 2002.

119. This conversation was described by the police as ‘*significant*’.<sup>304</sup> They interpreted James Cook’s reference to ‘*the possibility of a witness coming forward*’ as relating to the murder of Daniel Morgan,<sup>305</sup> and they believed it demonstrated that James Cook was ‘*clearly acknowledging his involvement in the subject matter*’.<sup>306</sup> The phrase ‘*they put the other one away*’ was construed by the police as a reference to Jonathan Rees, who at the time was serving his sentence for perverting the course of justice (see Chapter 4, Operation Nigeria/ Two Bridges), and the reference to ‘*there’s one out ain’t there*’ as a reference to Glenn Vian.<sup>307</sup> However, while the conversation was regarded as suspicious, it did not provide any investigative opportunities.

120. At 9.37 pm on 26 June 2002, immediately following the *Crimewatch* broadcast, James Cook left his home in his car. The monitoring officers had previously had their recording facility switched on but had switched it off to save battery life. The officer responsible failed to switch back on the recording devices, but made a note of the conversation.<sup>308</sup> James Cook called an unidentified person and the police officer listening recollected that James Cook said: ‘[...]“*Fifty grand*” and that “*one was a copper who now works there*” and “*they are going to need proper evidence*”’.<sup>309</sup> There is no contemporaneous note of this recording. Another officer stated that he also heard James Cook having a telephone conversation and saying: “*“Fifty grand”*” and “*“[o]ne of the coppers is a partner”*”.<sup>310</sup> The officer related that James Cook had said: “*“[t]hey’re going to need proper evidence”*”.<sup>311</sup>

121. There was no recording of any relevant comment by any of the suspects on Thursday, 27 June 2002, the day after the *Crimewatch* broadcast. However, on 28 June, Glenn Vian was recorded in a conversation with Kim Vian, saying:

[Glenn VIAN]                    *“I wouldn’t do anything ... about the motor ... he ain’t gonna talk about the motor .... Working together ... the cunt ... I done damage to it ... I done about £500 worth of damage to it ... may well have had the hump about how much ... I don’t know I really don’t know ... Gary ...”*

*“.... before ....he would’ve told ya ... that’s why he fucking .... d’ya know what I’m saying ... I don’t know .... I don’t know why .... I ain’t got a clue ... hoping that Gary would’ve got off ... but what it is ... you see ... me ...don’t ya ... all the fucking ... but he’s left in peace all the time ... you know what I’m saying ... COOKIE ... COOK makes me wanna fucking do in ....”*

[Kim VIAN]                        *“Calm .... darlin”.*

[Glenn VIAN]                    *“Look baby ... he’s paid to ditch the other fucking motor ... I would’ve done ... out ... at least fucking put someone in to do a proper ... I don’t know ... maybe someone dropped ... into a pond or sold the motor I don’t know ... fucking ...”*

304 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p78, 07 March 2003.

305 Application for Part III Police Act 1997 – Property Interference, MPS006623001, p8, 26 September 2002.

306 Application for Part III Police Act 1997 – Property Interference, MPS006623001, p8, 26 September 2002.

307 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p79, 07 March 2003.

308 Witness statement of the officer listening, MPS041283001, 26 June 2002.

309 Witness statement of the officer listening, MPS041283001, p4, 26 June 2002.

310 Witness statement of a Detective Constable, MPS041281001, p1, 27 June 2002.

311 Witness statement of the Detective Constable, MPS041281001, p1, 27 June 2002.



*Conversation quietens, distant.*<sup>312</sup>

Glenn and Kim Vian subsequently said:

[Kim VIAN] “..... just don’t say nothing now” ....

[Glenn VIAN] “Say ... Gary paid me I don’t know ... I hope not ... fucking garage ... fucking ... know what I mean....”.

*“..knock on the door ... you know what I’m saying ... I told ’em that anyway ... these people ... knock on the door ... fuck all ... last week ... fucking playing at ... know what I mean ...”.*

*“What do you think I’m going to do, go down ... all down...”.*

[Kim VIAN] *Distant and unreadable fading in and out. “Gary... surely ... what did Gary”.*

[Glenn VIAN] *“The robbery see ... got about 30 for my .... I was the ... and I never got fucking paid ... I know I’m right that’s what I’m saying....”.*

[Kim VIAN] *“Don’t you dare....”.*

[Glenn VIAN] *“No I know what I’m saying but I don’t know what it was for, I know what I’m saying....”.*

*Conversation continues but quietens and is largely inaudible and appears distant.*<sup>313</sup>

122. It is unclear which criminal activity was being referred to in the conversations picked up by the audio surveillance of the Vian household, and it cannot be assumed that it related to either the Belmont Car Auctions robbery (see Chapter 1, The Morgan One Investigation) or any other robbery. Similarly, although references to a ‘motor’ could be interpreted as having been prompted by the *Crimewatch* broadcast on 26 June 2002, as DCS David Cook had appealed for more information about the ‘getaway car’, it cannot be assumed that it is the ‘getaway car’ used in the murder of Daniel Morgan.

123. In a briefing note, T/D/Supt David Zinzan stated that the quality of the product from Glenn Vian’s home was poor, and certainly not up to evidential standards.<sup>314</sup> T/D/Supt Zinzan nevertheless commented:

*‘It is accepted that [Glenn Vian] has an interest in the murder, he was arrested in connection with it in 1987 and even if entirely innocent, it is natural that he would discuss the new investigation. It is believed however that his conversations go beyond that interest. He has concerns and knowledge that indicate involvement.’*<sup>315</sup>

312 Audio summary, MPS042410001, pp3-4, 28 June 2002.

313 Audio summary, MPS042410001, p4, 28 June 2002.

314 ‘Operation Abelard Briefing Note’, MPS049782001, p1, 09 July 2002.

315 ‘Operation Abelard Briefing Note’, MPS049782001, p3, 09 July 2002.

124. The content of the recorded information was reported and considered in the report by the Metropolitan Police to the Crown Prosecution Service on 07 March 2003<sup>316</sup> (see paragraph 452 below).

125. On 29 June, three days after the *Crimewatch* broadcast, there was a 20-minute conference telephone call between Glenn Vian and Jonathan Rees.<sup>317,318,319</sup> Glenn Vian's contribution to this conversation was captured from the probe inserted at his home. However, the poor quality of the recording meant that even his part of the conversation was not detected properly, and it was not possible to record the contents of the call.

## 7.6 The 'trigger' call

126. On 01 July 2002, with the agreement of the Crown Prosecution Service, a trigger telephone call was made to James Cook by a police officer.<sup>320,321,322</sup> The caller told James Cook that she knew who was involved in the murder and that she would inform the police of this 'in order to claim the reward money' which was being offered. However, she said that if James Cook paid her £50,000, she would not do so. James Cook responded to the caller by saying that he did not care. She gave a phone number and asked him to contact her with his decision two days later at a specific time.<sup>323,324,325</sup> Police hoped that this would cause James Cook to contact identified associates and enable the investigation to monitor the conversations covertly. DCS David Cook reported that 'enquiries were made into the telephone number supplied', but no further information of use to the investigation was found.<sup>326</sup>

127. DCS David Cook reported that that evening James Cook telephoned his wife to tell her about the trigger telephone call,<sup>327</sup> and that he had spoken to his solicitor. He was recorded saying:

*'he can't do anything about it...Why not?... You can't do nothing (inaudible) ...I've got the same powers as police officers got they make their notes straight away (inaudible) sign it...you sign it.... Time and date it (inaudible). Finally I've spoken to him...he said calm down I said I can't fucking calm down...I've fucking got people trying (inaudible) ....You can't do anything about it he said (inaudible) ... Say nothing... (inaudible) .... You know what I mean (inaudible) I give them the fifty grand or they're fucking going to tell a pack of lies.... (inaudible) ... they could get arrested (inaudible) ....Before you've had a fucking chance to prove your innocence do you know what I mean....They phone me up 15 years ago I said to make (inaudible.....)'.<sup>328</sup>*

316 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp78-82, 07 March 2003.

317 Document D1467, 'Audio probe material compared with phone billing on CPS [Crown Prosecution Service] submission', MPS103561001, p3, 29 August 2007.

318 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p82, 07 March 2003.

319 In DCS David Cook's advice file sent to the Crown Prosecution Service on 07 March 2003, he stated that former DS Sidney Fillery was also party to the phone calls between Jonathan Rees and Glenn Vian. It was subsequently discovered that former DS Fillery had provided Jonathan Rees with a phone card to use in prison, and was not in fact party to these specific calls, (see Action A1325, MPS066994001, 18 June 2008.)

320 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p82, 07 March 2003.

321 Audio summary of recorded telephone conversation between a police officer and James Cook (1821-1958), MPS058784001, pp1-6, 01 July 2002.

322 Letter from Crown Prosecution Service to DCI David Zinzan, MPS048550001, 12 June 2002.

323 Audio summary of recorded telephone conversation between the police officer and James Cook (1821-1958), MPS058784001, pp4-6, 01 July 2002.

324 Report book of the police officer, MPS008468001, pp1-7, 01 July 2002.

325 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p83, 07 March 2003.

326 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p83, 07 March 2003.

327 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p83, 07 March 2003.

328 Audio summary, MPS060106001, p3, 01 July 2002.

128. James Cook then said:

*'Fucking North London....fucking South London... know what I mean. He better not do it in Norbury, Carshalton or Wallington, South Mitcham or anything like that... 'cos I'm fucking....I'm red hot.... My face is like a burnt [sic] bit of toast, do you know what I mean.'*<sup>329</sup>

129. He continued to talk for a while, and then explained that he had got a tape recorder and attempted to telephone the woman who had called him, but there was no response.<sup>330</sup>

130. No other evidence was gathered from the covert surveillance as a result of the offer of a reward, or as a result of the *Crimewatch* programme.

131. Person F11 had alleged in January 1999 that, prior to the getaway car used in Daniel Morgan's murder being destroyed, Person P9 had stored the car in a garage<sup>331,332</sup> (see paragraph 43 above). On 04 July 2002, two officers had visited Person P9, leaving a message for him to contact the incident room.<sup>333,334</sup> It had been explained that a reinvestigation had commenced into the death of Daniel Morgan.<sup>335</sup> Person P9 had been placed under covert surveillance (see paragraph 65 above) and the intention was to stimulate conversation within Person P9's household.<sup>336</sup>

132. On 04 July 2002, Person P9 had subsequently been heard making the following comments during a telephone conversation. It is not known to whom he had been speaking.<sup>337,338</sup>

*".....other people have already got nicked....."*

*"(U/I) [Unintelligible].....five grand (U/I)..... five grand"*.

*".....they nicked him..... (U/I)".*

*".....that's the fella that's done this..... (U/I).*

*The old bill know who it is.....fifteen years ago..... (U/I) I used to hang around with this fella....."*

*"You had a garage, you had a car..... (U/I)".*

*".....and I know and I know they steamed round..... (U/I)".*<sup>339</sup>

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329 Audio summary, MPS060106001, p3, 01 July 2002.

330 Audio summary, MPS060106001, p3, 01 July 2002.

331 Witness statement of Person F11, MPS046816001, p2, 22 January 1999.

332 Person F11's risk assessment, MPS049793001, p2, 29 May 2002.

333 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p85, 07 March 2003.

334 Action A139, MPS059553001, pp1-4, returned 24 July 2002.

335 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p85, 07 March 2003.

336 'SIO Sensitive Decision Log', MPS072551001, p6, 04 July 2002.

337 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p85, 07 March 2003.

338 Audio summary, MPS060108001, pp1-2, 04 July 2002.

339 Audio summary, MPS060108001, pp1-2, 04 July 2002.

## 7.7 Prison visitors

133. The names of people who visited Jonathan Rees while he was in prison were recorded. His visitors during June and July 2002 included former DS Alec Leighton, Margaret Harrison, former PC Derek Haslam, former DS Sidney Fillery, former DC Thomas Kingston, and Glenn and Kim Vian.<sup>340</sup>

134. Although these visits by such notable contacts were of obvious interest to the murder enquiry team, the fact of their taking place did not in themselves advance the investigation.

## 8 The *News of the World* surveillance of DCS David Cook

135. Following DCS David Cook's appearance on BBC *Crimewatch*, he was subjected to surveillance by the *News of the World*. A brief account of what occurred in this context following the *Crimewatch* programme is included here. This episode is covered in detail in Chapter 10, Corruption.

136. On 27 June 2002, the day after DCS David Cook had appeared for the Metropolitan Police in the *Crimewatch* appeal, T/D/Supt David Zinzan rang DCS Cook to report that information had been received indicating that former DS Sidney Fillery of Law & Commercial and Alex Marunchak, a journalist with the *News of the World*, were exploring ways of discrediting DCS Cook.<sup>341,342</sup> It was agreed that the Metropolitan Police would conduct a security review of DCS Cook's home and on 30 June 2002 officers visited the house and made recommendations which were implemented.<sup>343</sup>

137. The following week, on 04 July 2002, a payroll officer at Surrey Police – DCS David Cook's former employer – received a suspicious phone call, purporting to be from the Inland Revenue and relating to the tax affairs of DCS Cook.<sup>344</sup> The payroll officer, suspecting the caller was bogus, provided no information and established that the call was from an unobtainable number. He reported the incident.<sup>345</sup>

138. On 10 July 2002, DCS David Cook noticed a discreetly parked vehicle, which had a clear view of his home. He reported the vehicle details and was told by T/D/Supt David Zinzan that the vehicle was leased to News International, the owners of *News of the World*. The next day, he noted a suspicious van, in addition to the other vehicle. Both vehicles were discreetly parked. That morning, when DCS Cook left the house in his car, he was followed by both vehicles. DCS Cook concluded that he was under surveillance.<sup>346</sup> Police officers were tasked to provide surveillance of those who had been watching DCS Cook's house.<sup>347</sup>

139. DCS David Cook noticed that one of the vehicles had a broken tail light and reported this to T/D/Supt David Zinzan. Action was taken by the police to install security measures at DCS Cook's home. Counter surveillance of the house by the Metropolitan Police identified the two

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340 Document D264, 'Visits to REES N3 13/08/2001 to 08/12/2002 HMP Ford', MPS061901001, p3, 03 March 2003.

341 Draft witness statement of former DCS David Cook, MPS102164001, p28, (unsigned and undated).

342 Panel Interview of former T/D/Supt David Zinzan, p8, 15 March 2016.

343 'Timeline', END001311001, p2, undated.

344 Email from Surrey Police payroll officer, MPS102164001, p52, 08 July 2002.

345 Email from Surrey Police payroll officer, MPS102164001, p52, 08 July 2002.

346 Draft witness statement of former DCS David Cook, MPS102164001, pp28-29, (unsigned and undated).

347 Operation Tuleta Report by DS Gary Dalby, MPS102164001, p13, 21 December 2011.

vehicles which had been watching DCS Cook's house.<sup>348</sup> The vehicle with the broken tail light was stopped by traffic police on 12 July 2002. The occupants of the vehicle were identified as *News of the World* photojournalists.<sup>349,350</sup> Later enquiries established that the driver of the other suspicious vehicle was also a *News of the World* photographer.<sup>351</sup>

140. DCS David Cook's wife, Jacqui Hames, contacted him later the same day to tell him that someone was taking photographs of their house from a van.<sup>352</sup>

141. Dick Fedorcio, Head of Media at the Metropolitan Police Directorate of Public Affairs, was informed about these incidents and he contacted the *News of the World*.<sup>353</sup> He was told that the newspaper believed that they were following a legitimate story, namely that DCS David Cook was having an affair with Jacqui Hames, a police presenter who appeared on *Crimewatch*.<sup>354</sup> DCS Cook was in fact married to Jacqui Hames; this would have been relatively easy to check since Jacqui Hames was a public figure and she and DCS Cook had been, together, the subject of an article in *Hello!* magazine.<sup>355</sup>

142. On 08 August 2002, DCS David Cook discovered that his credit card statement, delivered to his locked external mailbox, had been opened, crudely resealed and put back in the letterbox.<sup>356</sup>

143. It had become known that Alex Marunchak, a journalist with the *News of the World*, was at the time in contact with former DS Sidney Fillery.<sup>357</sup> Phone records showed multiple telephone calls between former DS Fillery and Alex Marunchak at the time of the surveillance by the *News of the World* on DCS David Cook.

144. At the time of the surveillance on DCS David Cook, Jonathan Rees was serving a six-year custodial sentence.<sup>358</sup> Former DS Sidney Fillery visited Jonathan Rees in prison.<sup>359</sup> Southern Investigations (and later Law & Commercial) had, for a considerable period since the murder of Daniel Morgan, derived a substantial proportion of its income from providing information to, among others, the *News of the World*.<sup>360,361</sup> The longstanding relationship between Jonathan Rees and Alex Marunchak involved the passing of sensitive and confidential information to the media for financial gain. Some of this information derived from police sources (see Chapter 10, Corruption).

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348 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, pp18-19, 27 January 2012.

349 Draft witness statement of former DCS David Cook, MPS102164001, p29, (unsigned and undated).

350 Operation Tuleta Report by DS Gary Dalby, MPS102164001, p4, 02 December 2011.

351 Operation Tuleta Report by DS Gary Dalby, MPS102164001, p5, 02 December 2011. Note that although one driver was identified as a *News of the World* employee at the time of the incident in 2002, the second driver was not identified as such until 2011.

352 Draft witness statement of former DCS David Cook, MPS102164001, p29, (unsigned and undated).

353 Draft witness statement of former DCS David Cook, MPS102164001, p29, (unsigned and undated).

354 Draft witness statement of former DCS David Cook, MPS102164001, p29, (unsigned and undated).

355 Draft witness statement of former DCS David Cook, MPS102164001, p29, (unsigned and undated).

356 Operation Tuleta Report by DS Gary Dalby, MPS102164001, p4, 02 December 2011.

357 Intelligence report, MPS054032001, pp3-4, 03 July 2002.

358 Police National Computer printout in respect of Jonathan Rees, MPS004001001, p3, 14 July 2009.

359 'Visitors to REES in prison Aug. 2001 – Oct. 2002', MPS062243001, p1, 17 November 2002.

360 Witness statement of a bookkeeper at Southern Investigations, MPS062387001, pp3-4, 08 August 2002.

361 Invoices to News International, MPS099558001, pp204-224, 29 May 1997 to 12 December 1997.



145. This surveillance, and other unlawful activity referred to above, caused DCS David Cook and his family considerable distress.<sup>362</sup> In a Panel interview, former T/D/Supt David Zinzan commented that he believed the surveillance and its impact on his family made DCS Cook obsessed with solving the murder of Daniel Morgan and bringing down former DS Sidney Fillery.<sup>363</sup>

146. In a letter to the Panel, former DS Sidney Fillery later denied any involvement in the organisation of the surveillance on DCS David Cook.<sup>364</sup> He also stated that, although he could not remember the reasons for the phone calls between them, he and Alex Marunchak had become personal friends, so *'to conclude that these telephone calls amount to some arrangement to cause disruption to Mr. Cook is, quite frankly, outrageous'*.<sup>365</sup>

147. In the months following the *Crimewatch* appeal, other possible surveillance incidents, including another vehicle parked near their house, caused DCS David Cook and Jacqui Hames concern.<sup>366,367</sup> Jacqui Hames told the Panel that items in the garden had been moved. She also told the Panel that around this time, an email was sent to a Producer of *Crimewatch*, suggesting that she was having an affair with a senior police officer (who was in fact her husband, DCS David Cook).<sup>368</sup>

148. On 27 August 2002, A/DCI Neil Hibberd recorded a decision stating among other things that *'[r]ecent intelligence indicates that that there has been contact between Mr MARANCHEK [sic] and Sid FILLERY in respect of this reinvestigation into Daniel MORGAN's murder. It appears that MARANCHEK [sic] and FILLERY are attempting to conduct research into the lifestyle of the SIO [Senior Investigating Officer], DCS COOK, in order to discredit this investigation.'*<sup>369</sup>

149. A/DCI Neil Hibberd continued: *'In light of the above I have concerns regarding the current and historical relationship between Mr MARANCHEK [sic] and Southern Investigations/ Law & Commercial. A financial investigation will attempt to prove or disprove any corrupt dealings and/ or provide evidence of criminal association surrounding Mr MORGAN's death.'*<sup>370</sup> A financial investigation followed.

150. Commander Andre Baker subsequently said that DCS David Cook had raised the matter with him on 03 January 2003 and said that he wanted the activity against him to stop. Commander Baker relayed DCS Cook's concerns and a meeting was set up with Rebekah Wade (later Brooks), then Editor of *The Sun* newspaper, in order to discuss the matter.<sup>371</sup> On 09 January 2003, that meeting took place between Dick Fedorcio, Commander Andre Baker, DCS Cook and Rebekah Wade.<sup>372</sup> Both former Commander Baker and former DCS Cook have told the Panel that this meeting was convened specifically to discuss the surveillance by the *News of the World* of DCS Cook and his family<sup>373</sup> (see further at paragraph 152 below). DCS Cook alleged that Commander Baker had told him, with reference to the meeting with Rebekah

362 Draft witness statement of former DCS David Cook, MPS102164001, pp29 and 34.

363 Panel Interview with former T/D/Supt David Zinzan, p10, 15 March 2016.

364 Letter from former DS Sidney Fillery to the Panel, pp9-10, 13 September 2017.

365 Letter from former DS Sidney Fillery to the Panel, p10, 13 September 2017.

366 Draft witness statement of former DCS David Cook, MPS102164001, p30.

367 Panel meeting with Jacqui Hames, p1, 18 January 2016.

368 Panel meeting with Jacqui Hames, p1, 18 January 2016.

369 Decision by A/DCI Neil Hibberd, EDN000603001, 27 August 2002

370 Decision by A/DCI Neil Hibberd, EDN000603001, 27 August 2002.

371 Witness statement of Cmdr Andre Baker, MPS102164001, pp165-166, 24 November 2011.

372 Witness statement of Dick Fedorcio to the Leveson Inquiry, EDN000690001, p20, 28 February 2012.

373 Panel interview with former Cmdr Andre Baker, PNL000256001, p3, 07 March 2018 and Panel interview with former DCS David Cook, PNL000209001, p9, para 46, 04 June 2015.



Wade, that *'the boss'* did not want trouble with the *News of the World*. When asked to comment on this, Lord Stevens told the Panel that he did not know anything about Alex Marunchak's activities and the phrase *'the boss'* could have been a reference to any senior officer. He had never said anything which could be interpreted to suggest that if there was evidence of criminal behaviour that proceedings should not be brought. On the contrary, he was adamant that if there was evidence of criminal offences against Alex Marunchak then he should have been prosecuted. Lord Stevens said that he did not know Alex Marunchak and, as far as he knew, he had never met or spoken to him.<sup>374</sup>

151. In an interview with the Panel, Commander Andre Baker stated the following:

*'I can remember the meeting as if it was yesterday, where each person sat and how Rebecca [sic] Wade reacted. Rebecca WADE was already in the office with Mr FEDORCIO when Dave COOK and I entered. Prior to going into the office Dave COOK briefly said to me that the meeting was about him (COOK) being followed. COOK told me about two men who were following him and mentioned, a Maracheck [sic] or something (Alex MARUNCHAK). Dave COOK put it to Rebecca WADE that somebody from the NOTW [News of the World] was paying to have him followed. WADE was dramatic in her response seemingly shocked and horror [sic] at COOK's suggestion. She gave assurances to COOK that she would get it stopped but added that she was totally unaware and surprised at such behaviour.'*<sup>375</sup>

152. In a statement provided to the Leveson Inquiry in 2012, Dick Fedorcio recorded that he had been asked to arrange the meeting by Commander Andre Baker *'to help them understand why Dave Cook had been the subject of media intrusion by the paper'*. He had *'phoned Rebekah Wade and she readily agreed to a meeting and this took place in [his] office at Scotland Yard on 9 January 2003 prior to an MPS [Metropolitan Police Service] media reception that she had been invited to attend that day'*.<sup>376</sup> Dick Fedorcio stated that:

*'they talked about Cook's concerns namely a vehicle hanging around Cook's house or following him and people "doorstepping" Cook's wife, and asking Wade why it was being done. I think she mentioned something about them being told he was having an affair. It was essentially a "welfare" meeting for Cook, rather than an operational meeting to deal with the issue. Cook and Baker also told Wade they had information suggesting one of her journalists was being paid by Southern Investigators [sic] and that she should be aware [...] I made no record of the meeting.'*<sup>377</sup>

153. Having arranged the meeting to address the issue of the surveillance of DCS David Cook, Dick Fedorcio should have made a record of the meeting he attended with DCS Cook, Commander Andre Baker and Rebekah Wade.

154. On 06 March 2012, Lord Stevens was asked at the Leveson Inquiry whether he was aware that in about 2004,<sup>378</sup> Southern Investigations was gathering evidence on senior Metropolitan Police personnel, and some of the evidence related to their private lives, and whether he

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374 Panel interview with Lord Stevens, pp8,9,11 & 12, 09 December 2020.

375 Panel Interview with former Cmdr Andre Baker, p3, 07 March 2018.

376 Witness statement of Dick Fedorcio to the Leveson Inquiry, EDN000690001, p20, 28 February 2012.

377 Witness Statement of Dick Fedorcio to the Leveson Inquiry, EDN000690001, pp20–21, 28 February 2012.

378 The Panel notes that reference to 2004 was in error, the surveillance occurred in 2002.

knew that DCS David Cook, his wife, Jacqui Hames, and his family had been placed under surveillance by the *News of the World*. He said that he had not been aware of the surveillance and that he could not remember anyone mentioning it to him in person.<sup>379</sup>

155. Lord Stevens subsequently made a supplementary witness statement in which he said:

*'I understand that Mr Fedorcio [then Director of Public Affairs and Internal Communication for the Metropolitan Police], will say that he informed me of a meeting which took place at New Scotland Yard on 9 January 2003 between Commander Baker, Detective Superintendent Cook [sic], Rebekah Brooks and Mr Fedorcio. I am also now informed that after the meeting, Mr Fedorcio arranged for Rebekah Brooks to attend a press reception at New Scotland Yard that I was present at.*

*'This may well be an accurate account but I have no recollection or note of either their meeting or the content of what was discussed.*

*'If the content of the meetings was as I have now been informed, I would expect there to be a formal record of it on the relevant case correspondence file.'*<sup>380</sup>

156. In an interview with the Panel in December 2020, Lord Stevens reiterated what he had told the Leveson Inquiry, saying that he was now aware that the meeting was to discuss the fact that DCS David Cook had been the target of surveillance by the *News of the World*<sup>381</sup> and that Dick Fedorcio had stated to the Leveson Inquiry that at the meeting Commander Andre Baker and DCS Cook 'told Wade they had information suggesting that one of her journalists was being paid by Southern Investigators [sic] and that she should be aware.'<sup>382</sup>

157. Lord Stevens told the Panel that he was also aware that Dick Fedorcio had stated to the Leveson Inquiry that, following the meeting, he had escorted Rebekah Wade to a reception that she and the Commissioner were both attending and that he had told the Commissioner that he 'thought the meeting had been useful'.<sup>383</sup> This reported comment by Dick Fedorcio suggested that the Commissioner knew about the nature of the meeting. Lord Stevens also reiterated what he told the Leveson Inquiry, namely that '[i]f the content of the meetings was as I have now been informed, I would expect there to be a formal record of it on the relevant case correspondence file'.<sup>384</sup>

158. Lord Stevens told the Panel that he found it surprising that Dick Fedorcio, according to his testimony to the Leveson Inquiry, had said that he had made no record of the meeting. He would have expected a note to have been made.<sup>385</sup>

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379 Testimony of Lord Stevens to the Leveson Inquiry, Afternoon session, p10, 06 March 2012.

380 Witness statement of Lord Stevens to the Leveson Inquiry, p2, 23 March 2012.

381 Panel interview with Lord Stevens, p6, 09 December 2020.

382 Witness statement of Dick Fedorcio to the Leveson Inquiry, p21, 28 February 2012.

383 Witness statement of Dick Fedorcio to the Leveson Inquiry, p21, 28 February 2012.

384 Witness statement of Lord Stevens to the Leveson Inquiry, p2, 23 March 2012.

385 Panel interview with Lord Stevens, p7, 09 December 2020.

159. Further attempts to discredit DCS David Cook were made in 2006 and 2007:

- i. On 22 June 2006, DCS Cook reported that he had received a call from a journalist who had been at a function the previous evening and was told by Alex Marunchak and former DS John Ross (see Chapter 1, The Morgan One Investigation) that DCS Cook's wife was trying to start a media business which would put DCS Cook in direct conflict as a Metropolitan Police officer.<sup>386</sup>
- ii. A message dated 06 December 2007, the day before DCS Cook retired from the Metropolitan Police, recorded that information had been received that Alex Marunchak was 'touting' a false story to various media formats that DCS Cook had been ordered to resign 'over the American Express debacle at New Scotland Yard'.<sup>387</sup> This was a reference to an anti-corruption investigation into misuse of Metropolitan Police credit cards.

160. In 2011, nine years after the incidents, an investigation into the attempts to gain information to discredit DCS David Cook and Jacqui Hames and the surveillance, by the *News of the World*, of the Cook family during the Abelard One/Morgan Two Investigation was conducted by the Metropolitan Police (see Chapter 10, Corruption).<sup>388</sup> Although former DS Sidney Fillery was Jonathan Rees's partner in Law & Commercial, the Metropolitan Police did not ask him any questions about the surveillance of DCS Cook at any stage.

161. Jacqui Hames was also told by the Metropolitan Police in this period that information relating to her and to former DCS David Cook had been found in a notebook belonging to a private investigator used by the *News of the World*. This information included: her payroll and warrant numbers; the name of the police section house in which she lived when she first joined the police in 1977; the name, location and telephone number of her place of work in 2002; her full home address and mobile phone number; and some notes about her previous husband and his work details. Former DCS Cook's name, telephone number, rank and reference to an 'appeal' were also found. This was presumed to be a reference to the appeal for information on *Crimewatch* in 2002. The date at the top of the notes was 03 July 2002, ten days before the vehicles used by the *News of the World* began to appear outside the home of DCS Cook and Jacqui Hames.<sup>389</sup>

162. The investigation into the surveillance of DCS David Cook and the attempts to gain personal information about him and his wife Jacqui Hames, took place nine years after the incidents had occurred. There is no explanation in the papers available to the Panel as to why there was no full investigation into this matter previously.

163. Advice was sought on 02 December 2011 as to whether there were grounds to prosecute anyone for the surveillance in July 2002 of DCS David Cook.<sup>390,391</sup> On 06 December 2011, Gregor McGill, a Deputy Chief Crown Prosecutor in the Crown Prosecution Service London

386 Information report, EDN000012001, p1, 22 June 2006.

387 Message M965, EDN000081001, 06 December 2007.

388 Operation Tuleta report by DS Gary Dalby, MPS102164001, pp2-6, 02 December 2011.

389 Witness statement of Jacqui Hames to the Leveson Inquiry, p15, para 41, 22 February 2012.

390 Email message from DS Gary Dalby to DCS Hamish Campbell, MPS102164001, pp321-322, 15 May 2012.

391 'Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS David Cook and his Wife Jacqui Hames by News of the World in July 2002' by Gregor McGill, MPS102164001, pp8-11, 06 December 2011.

Area, provided preliminary advice on this matter, but sought the answers to some questions before a final decision could be made.<sup>392</sup> The questions were answered on 21 December 2011<sup>393</sup> and on 27 January 2012, in Advice from Gregor McGill approved by Alison Levitt QC, Principal Legal Adviser to the Director of Public Prosecutions, that concluded, among other things, the following:

- i. Former DS Sidney Fillery had had regular contact with Alex Marunchak over the relevant period (both before and after the incidents which formed the subject of the advice).
- ii. Jonathan Rees made a number of large payments to Alex Marunchak over a number of years – a curious fact, given that normally journalists pay private investigators, not the other way around.
- iii. Within a few days of the broadcast of *Crimewatch*, an effort was made to discover DCS Cook's home address. The technique used was that known as 'blagging'<sup>394</sup> – a man purporting to be from the Inland Revenue rang the Surrey Police asking for his details. The recipient of this call was suspicious and did not give any information.
- iv. DCS Cook's personal details had been found written in a notebook belonging to Glenn Mulcaire, who had been employed by the *News of the World* on a freelance basis, who engaged in both phone-hacking and 'blagging' on the newspaper's behalf and who had provable links to Alex Marunchak, who tasked him on many occasions.
- v. A few days after the attempt was made to obtain DCS Cook's home address, DCS Cook observed a suspicious blue van near his home and took the number plate. The van was leased to News International Limited.
- vi. Two days later, officers conducting a covert surveillance operation noticed two vans near DCS Cook's home address. One was the same blue van, the other was a white Vauxhall Astra. The blue van was driven by an identified man who had a *News of the World* press pass. The Astra was driven by a *News of the World* staff photographer.
- vii. These individuals had told police that they had been tasked by the *News of the World* to obtain photos of a police officer and the *Crimewatch* presenter. They had been told that they were having an affair.
- viii. Subsequent investigation revealed that Alex Marunchak was the *News of the World* journalist 'investigating' the affair.<sup>395</sup>
- ix. The Advice from the Crown Prosecution Service concluded that, although there was no direct evidence, a jury would be entitled to infer that the tip-off about the 'affair' was likely to have come from Southern Investigations, for the following reasons:
  - a. Southern Investigations were a firm of private investigators, and as such were likely to seek out or otherwise become aware of gossip and rumour.

392 'Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS David Cook and his Wife Jacqui Hames by News of the World in July 2002' by Gregor McGill, MPS102164001, pp8-11, 06 December 2011.

393 'Further report and Response to Questions and Advice from Gregor McGill', MPS102164001, pp13-14, 21 December 2011.

394 Pretending to be someone entitled to access to an individual's personal information in order to fraudulently obtain the data, often by telephone or email.

395 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, pp17-19, 27 January 2012.

- b. They had links with the *News of the World*.
- c. '[T]he timing could not possibly be a coincidence.'
- d. The tip-off must have come from a source which the *News of the World* journalists trusted to the extent that they would not question it, given that a very brief investigation would have revealed that this was not a story at all.<sup>396</sup>

164. The Advice stated that *'it was reasonable to infer that if the tip-off was from Southern Investigations, the target would have been DCS COOK and the motive/intention of Jonathan REES and/or Sidney FILLERY would have been to attempt to disrupt the police investigation'*.<sup>397</sup>

165. However, the Advice said it did not think that it was possible to infer that the motive/intention of Alex Marunchak and Glenn Mulcaire must necessarily have been to disrupt the investigation, and that given that Jacqui Hames was a public personality with a high profile, a story suggesting that she was having an affair with a police officer would be attractive to the *News of the World* in its own right.

166. The Advice also said that the fact that the story was plainly nonsense gave rise to a possibility that Alex Marunchak and Glenn Mulcaire may in fact have been deceived, asserting that they would hardly have deployed photographers had they known the story to be untrue, as they would have recognised not only that it was likely to unravel within a very short time, but that had they published a wholly and demonstrably false story, it might have affected their own jobs.<sup>398</sup> The Advice from Gregor McGill concluded that a jury might decide that the intention of the journalists was merely to run a typical *News of the World* 'expose, rather than to pervert the course of justice'.<sup>399</sup>

167. The Advice also referred to the fact that journalists normally pay investigators, rather than investigators paying journalists,<sup>400</sup> considering:

*'whether the payments made by Southern Investigations to AM [Alex Marunchak] would be evidence from which a jury might infer that they had paid him to investigate or write this story (which would arguably be incompatible with his having acted solely as an investigative journalist). I have concluded that although it is plainly highly suspicious, the payments cannot be linked to this incident, and are not sufficient to undermine the points made above.'*<sup>401</sup>

168. They therefore determined that *'there is insufficient evidence to substantiate any allegation of doing an act with a tendency to pervert the course of public justice against any presently identified suspect in this investigation'*.<sup>402</sup>

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396 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, p19, 27 January 2012.

397 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, p19, 27 January 2012.

398 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, pp19-20, 27 January 2012.

399 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, p20, 27 January 2012.

400 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, p17, 27 January 2012.

401 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, p20, 27 January 2012.

402 '2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by News of the World in July 2002' by Gregor McGill and Alison Levitt QC, MPS102164001, p21, 27 January 2012.



169. The Panel has not seen any direct evidence proving that the *News of the World* surveillance of DCS David Cook was instigated by either Jonathan Rees or former DS Sidney Fillery. However, the circumstantial evidence, as set out above, suggests very strongly that the intrusive activity suffered by DCS Cook, his wife, Jacqui Hames, and their family was arranged by former DS Fillery and Alex Marunchak with a view to discrediting DCS Cook and/or to intimidate him and thus disrupt the Abelard One/Morgan Two Investigation.

170. DCS David Cook has told the Panel that the intrusive activities which he suffered in 2002 caused him considerable anxiety. Although the Metropolitan Police acted rapidly to identify those responsible for the surveillance identified by DCS Cook on 10, 11 and 12 July 2002, they did not treat this as a possible crime, but dealt with it, six months later, by means of a ‘*welfare meeting*’ for DCS Cook. This was an inappropriate way to deal with such activity at a critical time in the new Abelard One/Morgan Two Investigation. It should not have taken nine years to investigate this matter properly. This matter is dealt with further in Chapter 10.

## 9 Witnesses and other contacts named in the recommendations from the 2000 Murder Review Report

171. In parallel with the commencement of surveillance and the preparation of the *Crimewatch* programme, DCS David Cook considered the recommendations of the 2000 Murder Review Report. These recommendations formed the basis for the Morgan Two Investigation.<sup>403</sup>

172. The 2000 Murder Review Report did not recommend interviewing Jonathan Rees, whom it named as being the key suspect, but recommended investigation of Jonathan Rees’s former police contacts, his co-defendants in the conspiracy to pervert the course of justice case,<sup>404</sup> his family connections and his business activities.

### 9.1 Jonathan Rees’s former police contacts

173. Jonathan Rees had various police contacts as part of his professional life, and the 2000 Murder Review Report noted that several of his close associates were serving prison sentences for corruption and other matters. Recommendations were made in respect of some of those officers and former officers.

#### 9.1.1 Police Officer E1

174. Police Officer E1, who at the time of Daniel Morgan’s murder was a police officer in South East London acquainted with both Daniel Morgan and Jonathan Rees, had been convicted in 1998 and subsequently sentenced in 2000 to imprisonment for three years and eleven months<sup>405</sup>

403 2000 Murder Review Report, MPS020525001, pp13-28, 06 October 2000.

404 2000 Murder Review Report, MPS020525001, pp31-35, 06 October 2000.

405 R v Thomas Kingston, Thomas Reynolds and Terence O’Connell [2014] EWCA Crim 1420, MPS109536001, p3, 09 July 2014.



for committing several offences, but was released by August 2000.<sup>406,407,408</sup> He had previously provided witness statements to both the Morgan One and Hampshire/Police Complaints Authority investigations.<sup>409,410,411</sup> Police Officer E1 had also been debriefed by the Directorate of Professional Standards following his arrest in July 1998.<sup>412</sup>

175. When spoken to, Police Officer E1 *'was unable to provide any useful information regarding the murder'*.<sup>413</sup>

### 9.1.2 Former DC Thomas Kingston

176. Former DC Thomas Kingston had been a police officer with the South East Regional Crime Squad.<sup>414</sup> During Operation Nigeria/Two Bridges, there was evidence that he had conversations with both former DS Sidney Fillery and Jonathan Rees about Daniel Morgan's murder.<sup>415,416</sup> Those conversations have been reviewed by the Panel and are in very general terms. In 2000, he had been convicted and sentenced with others to a term of imprisonment of three years and six months for supplying controlled drugs stolen during police raids.<sup>417</sup> He was reported to have undertaken surveillance work for Law & Commercial while awaiting trial.<sup>418</sup> The Murder Review Report recommended that he be interviewed about all he knew in relation to Daniel Morgan's murder.<sup>419</sup> A message was left with his solicitor, but former DC Kingston declined to make contact with the Abelard One/Morgan Two Investigation.<sup>420,421</sup>

### 9.1.3 Former DC Duncan Hanrahan

177. Former DC Duncan Hanrahan had been sentenced to imprisonment in 1999 (See Chapter 4, Operation Nigeria/Two Bridges), but he had since been released. His role in the Morgan One Investigation is described in Chapter 1, The Morgan One Investigation. It was recommended that he be interviewed about his knowledge of the murder.<sup>422</sup> Preliminary investigative work (including surveillance of former DC Hanrahan) was carried out and nothing to link him in any way to the murder of Daniel Morgan was found.<sup>423</sup> A decision was made by DCS David Cook on

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406 2000 Murder Review Report, MPS020525001, p32, 06 October 2000.

407 Regina v Christopher Drury, Robert Clark, Thomas Reynolds, Terance O'Connell, Thomas Kingston [2011] WL 415616, CLA000119001, pp1, 3 and 7, 11 April 2001.

408 Despite being sentenced in 2000 to several years imprisonment, the parole provisions meant that he only served half the sentence in custody and any time spent on remand before sentence was passed, had been taken off the total, thereby enabling release within the same year, 2000.

409 2000 Murder Review Report, MPS020525001, p32, 06 October 2000.

410 Witness statement of Police Officer E1, MPS010381001, 16 April 1987.

411 Witness statement of Police Officer E1, MPS010385001, 01 December 1988.

412 Regina v Christopher Drury, Robert Clark, Thomas Reynolds, Terance O'Connell, Thomas Kingston [2011] WL 415616, CLA000119001, pp3-4, 11 April 2001.

413 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p129, undated.

414 Regina v Christopher Drury, Robert Clark, Thomas Reynolds, Terance O'Connell, Thomas Kingston [2011] WL 415616, CLA000119001, p1, 11 April 2001.

415 Document D1831, *'Enhanced summary transcript from [Southern Investigations] on 06/07/1999'*, MPS009957001, 27 February 2008.

416 Transcript of conversation at Southern Investigations, MPS000761001, pp14 and 18, 07 July 1999.

417 Regina v Christopher Drury, Robert Clark, Thomas Reynolds, Terance O'Connell, Thomas Kingston [2011] WL 415616, CLA000119001, p27, 11 April 2001.

418 2000 Murder Review Report, MPS020525001, p33, 06 October 2000.

419 2000 Murder Review Report, Recommendation 9, MPS020525001, p33, 06 October 2000.

420 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p129, undated.

421 Action A44, MPS059428001, pp1-2, 27 June 2003.

422 2000 Murder Review Report, Recommendation 10, MPS020525001, p33, 06 October 2000.

423 *'Update report Operation Abelard'*, MPS048416001, p5, 13 November 2002.

04 October 2002 to interview former DC Hanrahan.<sup>424</sup> On 08 October 2002, former DC Hanrahan spoke to the police at his solicitor's office.<sup>425</sup> He confirmed information which he had previously provided (see paragraph 227 below).

#### 9.1.4 Other former police officers

178. It was suggested that three former officers, former DS Alec Leighton, former DC Nigel Grayston and a former Police Constable, who had not been convicted of any criminal offence, should be monitored as the investigation progressed and, if necessary, approached to see whether they could provide any information to the murder investigation.<sup>426</sup> The former Police Constable was visited by the Abelard One/Morgan Two Investigation on 27 June 2003. He said that he knew nothing about the murder of Daniel Morgan and that '*it was never discussed*'.<sup>427</sup> After some further investigation it was decided on 09 June 2003 that '*conducting research on LEIGHTON adds no value at this time*'.<sup>428</sup> No further enquiries were made. There is no record that former DC Grayston, who was known to be associated with Jonathan Rees, was approached.

## 9.2 Jonathan Rees's co-defendants

179. Jonathan Rees was in prison on remand at the time of the Murder Review awaiting trial for perverting the course of justice in an unrelated matter (see Chapter 4, Operation Nigeria/Two Bridges). His co-defendants were Simon James, James Cook, DC Austin Warnes and David Courtney, and it was recommended that Simon James should be interviewed to see whether he could assist the murder investigation.<sup>429</sup> The 2000 Murder Review Report had also suggested that, if the other co-defendants were convicted, they should be interviewed in an attempt to gain information which might assist the murder investigation.<sup>430</sup>

180. In August 2002, the Abelard One/Morgan Two Investigation contacted the prison where former DC Simon James was serving his sentence. Former DC James reportedly responded by saying that having seen the *Crimewatch* appeal about Daniel Morgan's murder, he was expecting the police to approach him but '*had nothing to say*' and '*would not agree to [the police's] visit*'.<sup>431</sup> All of Jonathan Rees's co-defendants were approached. They provided no evidence to assist the investigation.

## 9.3 Jonathan Rees's family connections

181. The 2000 Murder Review Report recommended that Jonathan Rees's family connections in Yorkshire be identified and consideration given to conducting background interviews.<sup>432</sup> Several family members were visited but were reported to have provided no useful information.<sup>433</sup>

424 Decision of DCS David Cook, EDN001003001, 04 October 2002.

425 A227, MPS059661001, pp1-2, returned 09 October 2002.

426 2000 Murder Review Report, MPS020525001, p34, 06 October 2000.

427 A343, 'TI [...] N448 an ex police officer who worked for Law and Commercial regarding knowledge of the Morgan murder', MPS059783001, p1, 27 June 2003.

428 'ACTIONS AND RESULTS RE LEIGHTON N100 (ALL INVESTIGATIONS)', MPS102246001, p3, undated.

429 2000 Murder Review Report, Recommendation 11, MPS020525001, pp34-35, 06 October 2000.

430 2000 Murder Review Report, MPS020525001, p34, 06 October 2000.

431 Action A98, MPS059507001, pp1-2, 08 August 2002.

432 2000 Murder Review Report, Recommendation 12, MPS020525001, p35, 06 October 2000.

433 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p129, undated.

182. Sharon Rees, by then Jonathan Rees's former wife, was seen twice by police. Although she lived in a house owned by Jonathan Rees, she reported that she had no contact with him. She said she could provide no further information regarding the death of Daniel Morgan.<sup>434,435,436</sup>

### 9.4 Jonathan Rees's business contacts

183. Following recommendations made in the Murder Review Report, DCS David Cook investigated a number of Jonathan Rees's business contacts.<sup>437,438,439</sup>

#### 9.4.1 William Newton

184. William Newton, who had been employed as an accountant for Southern Investigations at the time of Daniel Morgan's murder,<sup>440,441</sup> had provided information to previous investigations, particularly with reference to James Ward (see Chapter 1, The Morgan One Investigation, and Chapter 4, Operation Nigeria/Two Bridges). The 2000 Murder Review Report recommended that William Newton be re-interviewed.<sup>442</sup> The report stated that James Ward's wife, Jacqueline Ward, needed to be interviewed to establish if she could corroborate William Newton's version of events.<sup>443</sup> It also recommended that a prison officer, who William Newton had said had told him that the murder was a '*contract killing*', be found and interviewed for the same reason.<sup>444</sup>

185. William Newton made a statement on 10 July 2002.<sup>445</sup>

186. He said he had spoken to a prison officer who '*had heard of the HP murder*'.<sup>446,447</sup> He also stated that while he was visiting his client Jacqueline Ward, who was the wife of James Ward, James Ward had referred to '*the HP murder*'<sup>448</sup> and said that '*the murder had to be committed by somebody who was immensely strong and the person who did it was Paul GOODRIDGE*'<sup>449</sup> (an associate of Jonathan Rees).

187. Attempts were made to trace and interview the prison officer who had '*heard of the HP murder*', but William Newton had no further information for the investigation team to do so.<sup>450</sup>

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434 Action A94, MPS059502001, p1, 01 July 2002.

435 Action A225, MPS059659001, p1, 14 October 2002.

436 Action A40, MPS059424001, p1, 17 July 2002.

437 2000 Murder Review Report, Recommendation 13, MPS020525001, p35, 06 October 2000.

438 2000 Murder Review Report, Recommendation 40, MPS020525001, p50, 06 October 2000.

439 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, pp130 and 135, undated.

440 Document D933, Information report regarding meeting with William Newton, MPS072518001, pp7-8, 06 October 1999.

441 2000 Murder Review Report, MPS020525001, pp38-39, 06 October 2000.

442 2000 Murder Review Report, Recommendation 19, MPS020525001, p39, 06 October 2000.

443 2000 Murder Review Report, MPS020525001, p39, para 6.9.45, 06 October 2000.

444 2000 Murder Review Report, MPS020525001, p39, paras 6.9.44-6.9.46, 06 October 2000.

445 Witness statement of William Newton, MPS062384001, 10 July 2002.

446 Witness statement of William Newton, MPS062384001, p4, 10 July 2002.

447 The Panel understands the reference to '*HP murder*' to be a '*hire purchase murder*'. This relates to the allegation that Daniel Morgan's murder was a contract killing and paid for in instalments.

448 Witness statement of William Newton, MPS062384001, pp3-4, 10 July 2002.

449 Witness statement of William Newton, MPS062384001, p5, 10 July 2002.

450 Action A49, MPS059433001, pp2-3, 17 July 2002.

### 9.4.2 John Peacock

188. John Peacock had been casually employed at Southern Investigations prior to Daniel Morgan's murder.<sup>451</sup> He had been employed by Jonathan Rees at Belmont Car Auctions in 1986 and had given statements on five previous occasions about matters relating to the murder of Daniel Morgan.<sup>452,453,454,455,456</sup> The 2000 Murder Review had examined this evidence and concluded:

*'It is clear that PEACOCK had an allegiance to REES. His statements are very loose and non-committal concerning the relationship between both REES and MORGAN, and concerning Margaret HARRISON. There are some reservations concerning his accounts, for example failing to recall the names of his colleagues whom he worked alongside for some four to six weeks at the Belmont Car Auctions.'*<sup>457</sup>

189. Later in the Murder Review Report, it was stated that John Peacock:

*'was laid off from his casual employment at Belmont Car Auctions one week before John [sic] REES made the allegation of robbery of £18000. This may have been deliberate if REES felt PEACOCK had allegiance to MORGAN.'*<sup>458</sup>

190. The Murder Review Report recommended that *'the current position of PEACOCK is assessed'*.<sup>459</sup>

191. John Peacock was approached by officers and provided with copies of three of the statements which he had made to the Morgan One Investigation, and the evidence he had given at the Inquest.<sup>460</sup> He made a further statement and said that these statements were *'accurate and were true to the best of my knowledge and belief at the time that I made them'*.<sup>461</sup> This statement covered a range of topics:

- i. Daniel Morgan's and Jonathan Rees's relationship;
- ii. Belmont Car Auctions and the robbery of money from Jonathan Rees;
- iii. Daniel Morgan allegedly stealing £12,000 from Southern Investigations;
- iv. Work done by Southern Investigations for the *News of the World*; and
- v. A conversation allegedly overheard between Jonathan Rees and former DS Sidney Fillery at the Inquest into Daniel Morgan's death.<sup>462</sup>

451 Witness statement of John Peacock, MPS010533001, pp1-2, 07 April 1987.

452 Witness statement of John Peacock, MPS010533001, 07 April 1987.

453 Witness statement of John Peacock, MPS010537001, 21 July 1987.

454 Witness statement of John Peacock, MPS010540001, 24 September 1987.

455 Witness statement of John Peacock, MPS010544001, 12 October 1987.

456 Witness statement of John Peacock, MPS010545001, 03 November 1987.

457 2000 Murder Review Report, MPS020525001, pp17-19, 06 October 2000.

458 2000 Murder Review Report, MPS020525001, p40, 06 October 2000.

459 2000 Murder Review Report, Recommendation 3, MPS020525001, p83, 06 October 2000.

460 Witness statement of John Peacock, MPS062398001, p1, 27 September 2002.

461 Witness statement of John Peacock, MPS062398001, p1, 27 September 2002.

462 Witness statement of John Peacock, MPS062398001, pp6-10, 27 September 2002.

192. John Peacock's earlier evidence had stated that, '[a]s far as I know Daniel and John [sic] Rees got on well. They had their "ups and downs" but I am not aware that there were any problems between them concerning the business'.<sup>463</sup> This is compatible with his position in the 2002 statement: 'I have been asked about arguments between REES and MORGAN but to the best of my knowledge there were no big problems between them just the normal business arguments between partners'.<sup>464</sup> However, he also said in the same statement that towards the end of Daniel Morgan's and Jonathan Rees's relationship, there was 'unrest' between them and Jonathan Rees wanted to split from Daniel Morgan.<sup>465</sup> He described offensive language exchanged between them, but emphasised that he understood this to be a 'joke'.<sup>466</sup> Likewise, in relation to Jonathan Rees allegedly saying that he wanted to get Daniel Morgan 'bopped off', he stated that '[n]o one took it as a serious comment about intending to kill MORGAN and I don't believe it was meant to be'.<sup>467</sup>

193. John Peacock was asked about Southern Investigations' involvement with Belmont Car Auctions.<sup>468</sup> He provided new information that Jonathan Rees made him believe that the officers who attended were "'tooled up" ie carrying firearms'.<sup>469</sup> He stated that he could not remember the names of the police officers at the auctions apart from former DS Sidney Fillery.<sup>470</sup> He stated that he was suspicious of why he had been taken off security on the night on which Jonathan Rees had been robbed:<sup>471</sup>

*'What I can say is that if it were a ploy to rip MORGAN off I would not have allowed it to happen and that may be why I was excluded on the night. Having said that REES has never indicated to me that he wasn't really robbed. I accepted at the time that it was a financial decision for me not to work on that night and I accept that people were being taken off and the numbers were being reduced.'*<sup>472</sup>

194. John Peacock had told the Morgan One Investigation that Jonathan Rees has told him that Daniel Morgan had stolen £12,000 from Southern Investigations. When asked about this, he stated that 'I do not recall ever saying this and can not recall any knowledge of such an allegation'.<sup>473</sup>

195. The first available *News of the World* transaction(s), among the papers relating to the investigation of Daniel Morgan's murder, was dated October 1988, and was for the sum of £1,305.25.<sup>474</sup> When asked when Southern Investigations began to work for the *News of the World*, John Peacock stated: 'I can recall that at some time and I can only say about the time of the murder, REES had indicated to me that there was going to be some work done with the *News of the World*. He never told me what it was about or who it involved and as far as I know I have never done any work associated to the *News of the World* to my knowledge'.<sup>475</sup>

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463 Witness statement of John Peacock, MPS010533001, p7, 07 April 1987.

464 Witness statement of John Peacock, MPS062398001, p6, 27 September 2002.

465 Witness statement of John Peacock, MPS062398001, p6, 27 September 2002.

466 Witness statement of John Peacock, MPS062398001, pp6-7, 27 September 2002.

467 Witness statement of John Peacock, MPS062398001, p7, 27 September 2002.

468 Witness statement of John Peacock, MPS062398001, p7, 27 September 2002.

469 Witness statement of John Peacock, MPS062398001, p8, 27 September 2002.

470 Witness statement of John Peacock, MPS062398001, p8, 27 September 2002.

471 Witness statement of John Peacock, MPS062398001, p8, 27 September 2002.

472 Witness statement of John Peacock, MPS062398001, p8, 27 September 2002.

473 Witness statement of John Peacock, MPS062398001, p9, 27 September 2002.

474 'Financial Profile Southern Investigations', MPS008128001, p23, undated.

475 Witness statement of John Peacock, MPS062398001, pp9-10, 27 September 2002.



196. John Peacock provided new information in his 2002 statement on a conversation he had overheard between Jonathan Rees and former DS Sidney Fillery at the Inquest into Daniel Morgan's death:

*'As far as the inquest is concerned, there is something that happened that may be of interest. On one of the days I went to lunch with REES and FILLERY. I heard conversation between them discussing access to statements relating to the murder and FILLERY intimated that he would or could get a copy of them from Catford. I don't know if he ever did.'*<sup>476</sup>

197. John Peacock's evidence in relation to two issues was presented in DCS David Cook's advice file to the Crown Prosecution Service.<sup>477</sup> John Peacock had been suspicious about being 'excluded' on the night of the Belmont Car Auctions robbery.<sup>478,479</sup> That robbery was viewed by DCS Cook as part of Jonathan Rees's possible motive to murder Daniel Morgan.<sup>480</sup> In addition, John Peacock was regarded as providing 'limited corroboration for LENNON's claims that REES said he wanted MORGAN murdered'.<sup>481</sup>

## 9.5 Jacqueline and James Ward

198. At the time of the Abelard One/Morgan Two Investigation, Jacqueline and James Ward were being investigated for money laundering. The 2000 Murder Review Report recommended that the investigation be monitored, and the Wards be re-interviewed in due course.<sup>482</sup> Police visited the home of James Ward, a close associate of Garry Vian, on 30 September 2002. They left a message with Jacqueline Ward asking James Ward to contact the investigation team. Jacqueline Ward was unable to assist the investigation and was reluctant to provide contact details for her husband. James Ward contacted the police and met with the investigation team the following day on 01 October 2002, in the presence of his solicitor.<sup>483,484,485,486</sup> He denied making comments about the murder to William Newton.<sup>487</sup>

## 10 The second period of covert surveillance: 30 September – 16 November 2002

199. On 30 September 2002, the second proactive phase of the covert Abelard One/Morgan Two Investigation began.<sup>488</sup> During Autumn 2002, the investigation made a large number of visits to persons close to the key suspects with a view to prompting conversations by and between the key suspects.

476 Witness statement of John Peacock, MPS062398001, p10, 27 September 2002.

477 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp18, 121 and 122, 07 March 2003.

478 Witness statement of John Peacock, MPS062398001, p8, 27 September 2002.

479 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p18, 07 March 2003.

480 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp21-22, 07 March 2003.

481 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p121-122, 07 March 2003.

482 2000 Murder Review Report, Recommendation 21, MPS020525001, p39, 06 October 2000.

483 Action A50, MPS059435001, pp2-3, 08 October 2002.

484 Action A51, MPS059440001, pp2-3, 08 October 2002.

485 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p87, 07 March 2003.

486 D1896, 'Schedule of Trigger Events Associated Evidence', Abelard Two Investigation document, MPS072569001, p11, undated.

487 Action A51, MPS059440001, pp2-3, 08 October 2002.

488 'Intelligence Update from Phase 1', MPS048094001, p1, 30 September 2002.



200. Four people were arrested: Person P9 on 03 October 2002, James Cook on 07 October 2002, Garry Vian on 19 October 2002 and Glenn Vian on 24 October 2002.<sup>489,490,491,492</sup>

### 10.1 Surveillance of Person P9, James Cook, Glenn Vian and former DC Duncan Hanrahan

201. As stated above (see paragraph 48), on 23 July 2002, Person F11 had contacted DCS David Cook<sup>493</sup> and said that he had spoken to Person P9 (whom he had previously said had stored the getaway vehicle after the murder), who had said that on the night of Daniel Morgan's murder he was supposed to be having a meal with James Cook at a public house. However, when James Cook turned up, he did not want anything to eat; he looked pale and just wanted to leave the area.<sup>494</sup>

202. Person P9 and Glenn Vian were placed under further surveillance on 30 September 2002.<sup>495,496,497</sup>

203. The 2000 Murder Review Report had noted that DC Duncan Hanrahan had been 'used by Detective Superintendent [Douglas] CAMPBELL to "befriend" [Jonathan] REES' and report back to the Morgan One Investigation.<sup>498</sup> The 2000 Murder Review Report said that it was likely that DC Hanrahan was 'always sympathetic to REES's case', but noted that he had been the night duty Criminal Investigation Department (CID) officer when Jonathan Rees had allegedly been robbed near his home of the monies from Belmont Car Auctions (see Chapter 1, The Morgan One Investigation).<sup>499</sup>

204. Former DC Duncan Hanrahan 'apparently was well known' to Person P9 and James Cook.<sup>500</sup> Information had been received from Person F11 on 25 June 2002 suggesting that former DC Hanrahan had been involved in the murder and had telephoned Daniel Morgan on 10 March 1987 in order to arrange 'a meet in the [Golden Lion public house] car park'.<sup>501</sup>

205. The intelligence from Person F11 recorded on 25 June 2002 is the only suggestion, of which the Panel is aware, that DC Duncan Hanrahan had made a telephone call to lure Daniel Morgan to the meeting where he was murdered. The Panel has seen nothing to substantiate or to corroborate this suggestion, or the more general allegation that former DC Hanrahan was involved in the murder.

489 Custody record of Person P9, MPS061350001, 03 October 2002.

490 Custody record of James Cook, MPS061483001, 07 October 2002.

491 Custody record of Garry Vian, MPS061455001, 19 October 2002.

492 Custody record of Glenn Vian, MPS102388001, 24 October 2002.

493 Message M57, MPS059917001, p1, 23 July 2002.

494 Message M57, MPS059917001, p1, 23 July 2002.

495 'Handing over report', MPS048745001, pp1-2, 30 September 2002.

496 'OP. ABELARD – ORIGINAL SURVEILLANCE TEAM BRIEFING PACK – PHASE 2', Person P9, MPS046834001, undated.

497 OP. ABELARD – PHASE 2 -ORIGINAL SURVEILLANCE TEAM BRIEFING PACE [sic]', Glenn VIAN, MPS046836001, undated.

498 2000 Murder Review Report, MPS020525001, p33, 06 October 2000.

499 2000 Murder Review Report, MPS020525001, p33, 06 October 2000.

500 2000 Murder Review Report, MPS020525001, p33, 06 October 2000.

501 Intelligence report, MPS048674001, pp1-2, 26 June 2002.

206. Former DC Duncan Hanrahan was under surveillance from 30 September 2002<sup>502</sup> until 15 October 2002.<sup>503</sup> Nothing relevant to the investigation was identified, and it was reported that during this time *'he led an extremely routine lifestyle'*.<sup>504</sup> He was visited and was stated to have provided no useful information although he said that the officer investigating the robbery of Jonathan Rees in 1986 had not carried out a thorough investigation.<sup>505,506</sup>

### 10.1.1 The arrest of Person P9

207. On 03 October 2002, Person P9 was arrested in connection with the murder of Daniel Morgan<sup>507</sup> and a search was made of his premises and outbuildings.<sup>508</sup> He was taken to Croydon Police Station.<sup>509</sup> It was hoped the news of an arrest would stimulate conversations between *'[James] COOK, [Glenn] VIAN, FILLERY or HANRAHAN'*.<sup>510</sup>

208. On his arrest, Person P9 said: *'Its [sic] nothing to do with me.'*<sup>511</sup> In interview he was then asked about James Cook and his own alleged part in looking after a getaway vehicle involved in Daniel Morgan's murder. He explained that he had looked after several vehicles for James Cook. He denied knowing Daniel Morgan but said he had been introduced to Jonathan Rees by James Cook. He was unsure whether he met Jonathan Rees before or after the murder.<sup>512</sup>

209. Some 15 minutes into the interview at 08.25 am there was a toilet break, during which Person P9 spoke to a Detective Sergeant in the detention room toilet, and said that on the night of the murder James Cook had met him for a meal at a restaurant, and claimed that he had been standing over Daniel Morgan's body, while the axe was in his head, and that Daniel Morgan's body was *'gurgling'*.<sup>513</sup> He said that the vehicle used on the night was a pale green Volkswagen Polo. He also said that he would not say it on tape.<sup>514</sup> The Detective Sergeant made a note of this conversation.<sup>515</sup> Person P9 was released on bail without charge, to return on 10 October 2002.<sup>516,517</sup>

210. The covert audio surveillance recording shows that when Person P9 returned home on 03 October 2002, he spoke to his partner about his arrest.<sup>518</sup> He told her, *'I told them everything'*, to which she replied, *'I bloody hope so.'*<sup>519</sup>

502 'Handing over report', MPS048797001, pp2-3, 30 September 2002.

503 'Handing over report', MPS048778001, pp3-4, 15 October 2002.

504 'Update report Operation Abelard', MPS046660001, p8, 13 November 2002.

505 Action A227 'Interview HANRAHAN N38 re any useful information particularly as to the Belmont car auction and the alleged robbery of REES N3', MPS059661001, 09 October 2002.

506 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p129, undated.

507 Custody record of Person P9, MPS061350001, 03 October 2002.

508 Witness statement of a Detective Constable, MPS062415001, 10 April 2003.

509 Custody record of Person P9, MPS061350001, p2, 03 October 2002.

510 'SIO Sensitive Decision Log', MPS072551001, pp15-16, 19 September 2002.

511 Witness statement of a Detective Sergeant, MPS062399001, 15 October 2002.

512 Interview of Person P9, MPS060205001, pp1-2, 03 October 2002.

513 Witness statement of the Detective Sergeant, MPS062402001, pp1 and 3, 28 July 2003.

514 Witness statement of the Detective Sergeant, MPS062402001, pp1 and 3, 28 July 2003.

515 Incident report book entry made by the Detective Sergeant, MPS061364001, p3, 03 October 2002

516 Custody Record of Person P9, MPS061350001, p11, 03 October 2002.

517 If at any time a custody officer becomes aware, in relation to any person in police detention, that the grounds for the detention of that person have ceased to apply it shall be the duty of the custody officer to order his immediate release from custody. The person shall be released on bail if there is a need for further investigation of any matter in connection with which the person was detained at any time during the person's detention, Police and Criminal Evidence Act 1984, sections 2, 3, 5 and 5A. (The detention of Person P9 had initially been authorised by the custody officer at Croydon in order to obtain evidence by way of questioning).

518 Enhanced audio tape summary, MPS103432001, 03 October 2002.

519 Enhanced audio tape summary, MPS103432001, p3, 03 October 2002.

211. Another woman who had lived with Person P9 was traced.<sup>520,521,522</sup> She was spoken to on three separate occasions between July and October 2002.<sup>523,524,525</sup> On the day of Person P9's arrest, she confirmed the address of a garage which had been used by Person P9 and confirmed where they had been living at the time of Daniel Morgan's murder. She stated that Person P9 had also used a garage which belonged to his mother, for which he paid £14 a month.<sup>526</sup> A request was made to research the garage address of Person P9's mother but was not carried out. It was deemed not to add value to the investigation because of the passage of time.<sup>527</sup> On 04 October 2002, DCS David Cook made a decision to release information about the colour and make of the alleged getaway vehicle (the pale green Volkswagen Polo) to the press. It was anticipated that the release of the vehicle's details into the public domain would act as a useful trigger.<sup>528</sup>

212. As stated above (see paragraph 50), on 04 October 2002, DCS David Cook reported that Person F11 had also been told by Person P9 that James Cook and Glenn Vian had been paid £3,000 each by Jonathan Rees to murder Daniel Morgan.<sup>529</sup>

213. The notes made of the conversation on 03 October 2002 were put to Person P9 when he returned for a further interview on 10 October 2002. He was reminded that *'there was nothing off the record and nothing confidential'* at the 03 October 2002 interview.<sup>530</sup> He made no comment. Person P9 was then *'released with no further action being taken at this stage'*.<sup>531</sup>

### 10.1.2 The response to the arrest of Person P9

214. T/D/Supt David Zinzan recorded that *'[t]he fact of [Person P9's] arrest, without naming him, was the subject of press releases, together with the new intelligence regarding the description of the vehicle used'*.<sup>532</sup> T/D/Supt Zinzan went on to say that *'significant conversation was recorded in relation to most of the suspects'*.<sup>533</sup> The age of the man arrested, 46, was given out by police in a press release<sup>534</sup> in order to stimulate conversation among suspects.<sup>535</sup> Person P9 was 46.<sup>536</sup>

215. On 03 October 2002, following Person P9's arrest, there was a series of telephone calls between former DS Sidney Fillery and other individuals:

- i. Former DS Fillery telephoned Margaret Harrison at 8.17 am;<sup>537</sup>
- ii. *'At 11.59hrs a telephone conference call took place between telephone numbers registered to HMP FORD, [...] and [Glenn] VIAN's home address. Mrs VIAN took the call as her husband was out, and there was a discussion with "John" about the*

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520 D318, Intelligence report for research on the woman, MPS047023001, pp2-3, 22 January 2002.

521 D373, Intelligence report, for research on the woman, MPS047058001, pp2-3, 11 June 2002.

522 D372, Intelligence reports for research on the woman, MPS047057001, 14 to 21 June 2002.

523 Message M31, MPS059891001, pp3-4, 02 July 2002.

524 Message M62, MPS059922001, p2, 12 September 2002.

525 Message M68, MPS059928001, pp3-4, 06 October 2002.

526 Message M68, MPS059928001, pp3-4, 06 October 2002.

527 Action A223, MPS059657001, p1, 09 June 2003.

528 Document D19, *'SIO SENSITIVE DECISION LOG'*, MPS072551001, p26, 04 October 2002.

529 Document D64, Intelligence report, MPS061356001, p3, 04 October 2002.

530 Interview of Person P9, MPS075045001, pp3-6, 10 October 2002.

531 Custody record of Person P9, MPS061350001, p35, 10 October 2002.

532 Document D786, *'Op Abelard Update'*, MPS048416001, pp3-4, 13 November 2002.

533 Document D786, *'Op Abelard Update'*, MPS048416001, p4, 13 November 2002.

534 Intelligence report regarding Evening Standard article of 03 October 2002, MPS054102001, p3, 03 October 2002.

535 Minutes of Meeting, MPS040546001, p2, 06 August 2002.

536 *'Briefing Sheet – background [Person P9]'*, MPS047979001, p13, undated.

537 Abelard Two Investigation report, MPS103338001, p135, 13 June 2007.

*investigation and the fact that the police had visited [James] WARD*'. James Ward was an associate of the Vian brothers.<sup>538,539</sup> A second conference call between the prison where Jonathan Rees was a prisoner and Glenn Vian's home address took place at 6.06 pm<sup>540</sup> and again Kim Vian talked with 'John'. There was some discussion about the age 46 which was given on the television and the fact that 'he' (unknown) was 50 last year;<sup>541</sup> and

- iii. Alex Marunchak of the *News of the World* attempted to contact former DS Fillery on six occasions between 8.45 am and 9.25 am. At 9.27 am and 10.39 am, two telephone calls were made, each lasting less than two minutes, however the records do not definitively show whether these calls were short conversations between the two individuals, or an answerphone message left by Alex Marunchak.<sup>542</sup>

216. There was also further discussion between Glenn and Kim Vian about the arrest. Watching television, Glenn Vian said, '46 what a throw up (responding to the television where 46 years of age mentioned) *innit that geezer 2 years older than me*'. Kim Vian said to her husband, '[t]hey got him. They know that he knows something and that he ain't saying nothing.'<sup>543</sup> The investigation believed that this was a reference to Person P9 and his knowledge about the murder.<sup>544</sup> Glenn Vian, in the same conversation, said '[t]hey'll wipe my arse if I crack'.<sup>545,546</sup>

### 10.1.3 James Cook's alibi

217. On 03 October 2002, the day of Person P9's arrest,<sup>547</sup> James Cook took Person D28 and Person D29 out for dinner.<sup>548,549</sup> Person D28 and Person D29 were in their sixties, and had known James Cook for 35 years as James Cook was a childhood friend of Person D28 and Person D29's son.<sup>550,551</sup> By this time there had been considerable speculation among the suspects regarding the earlier arrest of Person P9.<sup>552,553,554,555</sup> The covert surveillance of James Cook revealed discussions between him and Person D28 and Person D29 which the police believed were designed to create an alibi for James Cook on the night of Daniel Morgan's murder.<sup>556,557,558,559</sup>

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538 Audio summary, MPS046872001, 03 October 2002.

539 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p88, 07 March 2003.

540 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

541 Audio summary, MPS043963001, pp1-2, 03 October 2002.

542 'Phone call between Sidney Fillery and Alex Muranchak [sic] 18/01/2002-20/12/2002', MPS102164001, p90, undated.

543 Audio summary, MPS043964001, p2, 03 October 2002.

544 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

545 Audio summary, MPS043964001, p3, 03 October 2002.

546 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

547 Custody record of Person P9, MPS061350001, p2, 03 October 2002.

548 'Handing over report, Date: 03/10/2002', MPS048803001, pp2 and 4, 04 October 2002.

549 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

550 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

551 Witness statement of Person D28, MPS006265001, p2, 27 November 2002.

552 Audio summary, MPS043963001, pp1-2, 03 October 2002.

553 Audio summary, MPS043964001, p2, 03 October 2002.

554 Audio summary, MPS046867001, p1, 03 October 2002.

555 Audio summary, MPS046872001, pp1-2, 03 October 2002.

556 Audio summary, MPS006254001, pp3-4, 03 October 2002.

557 Audio summary, MPS000788001, pp1-2, 03 October 2002.

558 'Handing over report, Date: 03/10/2002', MPS048803001, pp2 and 4, 04 October 2002.

559 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

218. During the journey to the restaurant, the probe in James Cook's vehicle recorded the following conversation:<sup>560</sup>

[Person D29] *Anyway we ain't got to know about that*

COOK *No*

[Person D29] *All we know is ... ([Person D28 and Person D29]in unison)...that you was round our house one night, many nights ... (inaudible). But that particular night, why I remember it, was because you came round in the day after and said I'm glad I was over here last night. Why? Cos last night my, a friend of a friend got killed, and I remember him telling me.*

[Person D28] *But you ain't got to say "I'm glad I was round here" cos why would he say that.*

[Person D29] *Oh right*

[Person D28] *Why would they, why would he be involved. No it's just that he said, "how about that then, last night, a friend of a friend erm"*

[Person D29] *Did you know him actually yourself then?*

COOK *Yeah*

[Person D29] *Oh right, it was somebody you knew*

[Person D28] *And they got fucking, they got murdered*

[Person D29] *No you only knew his ... (inaudible) (talking to COOK still)*

[Person D28] *They got killed, got murdered and all we know is that it was the night, the night it happened was the night he was round our place.*

[Person D29] *It's a funny thing.....*

[Person D28] *We know no fucking date, and how long ago was this Jim.*

COOK *15 year*

[Person D28] *15 year! As if you wouldn't remember fuck all would you Jim? But you would know, that you come round the day after.*

[Person D29] *That's what I remember.*

[Person D28] *Cos you was round our place the night it happened, cos he came round the day after.<sup>561,562</sup>*

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560 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp90-91, 07 March 2003.

561 Audio summary, MPS006254001, pp3-4, 03 October 2002.

562 The Panel assumes that reference to 'Cook' is to James Cook.



219. During the return journey in James Cook's car from the restaurant, the following conversation was recorded (the names of those speaking were not recorded):

- Female* "Just like the fucking last (murder?) you know, it goes over but when it comes up again"
- Male* *Inaudible*
- Female* "That fucking (cunt?) don't matter what they say (pause) you can depend on us to say the right things" (*inaudible*)
- Male*  
(James Cook?) *We don't know no [sic] dates about me. All we know is that when it happened.*
- Female* "The day after it happened"
- Male*  
(James Cook?) "The day after it happened"
- Female* "You came round my house (*inaudible*) I knew him, he was a friend of a friend you know (*inaudible*). I know when it happened he was round my house".
- Male*  
(James Cook?) "Is that enough, or .."
- Female* "Swear to God" (*inaudible*)
- Male* "He was round our house that night"
- Female* *Inaudible.*
- Female* "He might be a little bit, you know, but he's nothing like that, he's not going to start that game, he's a different type of person".
- Male* "You don't fucking give them any information, we don't know fuck all, all we know is you [James] was round our house that night and he left, it was gone ten when he left, you don't feed them any fucking thing".<sup>563</sup>

220. This evidence was subsequently cited in DCS David Cook's advice file.<sup>564</sup>

#### **10.1.4 The arrest of James Cook on 07 October 2002**

221. On 04 October 2002, 'in order to provoke further reaction from COOK', and knowing that he was elsewhere, police attended James Cook's home address, 'ostensibly looking to arrest him' in connection with the murder of Daniel Morgan. Officers from the investigation team spoke with his wife.<sup>565,566,567</sup>

<sup>563</sup> Audio summary, MPS000788001, pp1-2, 03 October 2002.

<sup>564</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp89-92, 07 March 2003.

<sup>565</sup> 'Update report Operation Abelard', MPS054201001, p5, 13 November 2002.

<sup>566</sup> 'Handing Over Report. Date 04/10/2002', MPS048804001, p2, 04 October 2002.

<sup>567</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp93-94, 07 March 2003.



222. Shortly after the police visit, James Cook was observed leaving his work and driving to the home address of Person D28 and Person D29. The investigation team stated in an update report, '*[i]t is believed that this visit was to enable COOK to reinforce the alibi in case he was arrested before he could do so*'.<sup>568,569</sup>

223. On 05 October, James Cook was recorded making a telephone call to an unidentified person in which he said:

*'I think [sic] was [Person P9], yeah. I think so (inaudible) I think what he's saying he's just fucking saying things, just bollocks you know what I mean, I said to Jackie if they could, if they put a contract out on me, the only other way now is to fucking (inaudible) their only way to do that is by either putting me up or fucking fitting me up on a moody fucking charge, or fucking planting something on me really, that's the next thing innit, I would be driving along and find something in me fucking car you know what I mean (inaudible).'*<sup>570</sup>

224. James Cook attended Wandsworth Police Station by appointment on 07 October 2002.<sup>571</sup> He was arrested in connection with the murder of Daniel Morgan.<sup>572</sup>

225. He was asked about his recovery work for Southern Investigations,<sup>573</sup> which, it had been claimed, was the reason for a telephone conversation between him and Jonathan Rees on 08 March 1987 (see Chapter 1, The Morgan One Investigation).<sup>574</sup> Examination of Southern Investigations' financial records had provided no information about such work.<sup>575</sup>

226. James Cook made no comment in response to questions put to him and was released on bail at 2.35 pm, without charge, to return on 14 October 2002.<sup>576,577</sup> After he was released on bail, the audio probe in his vehicle identified him making or receiving various telephone calls, three of which were relevant.<sup>578,579,580,581</sup> During the first of these he talked about being arrested and said, '*[o]h just people who said it had something to do with me[...]*'.<sup>582</sup> In the second he referred to his arrest and said that he had made '*no comment*', and '*[m]ust be offering someone. (Inaudible) To talk to them*'.<sup>583</sup> During the final call he talked about the fact that '*[i]t's all bollocks as far as I am concerned*'.<sup>584</sup>

227. A series of other visits to potential witnesses was made during the following week. These visits were intended to gather information and to provoke conversation. On 08 October 2002, former DC Duncan Hanrahan spoke to the police at his solicitor's office.<sup>585</sup> He confirmed

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568 'Handing Over Report. Date 04/10/2002', MPS048804001, p2, 04 October 2002.

569 'Update report Operation Abelard', MPS054201001, p5, 13 November 2002.

570 Audio summary, MPS103424001, p3, 05 October 2002.

571 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p95, 07 March 2003.

572 Custody record of James Cook, MPS061483001, pp2-9, 07 October 2002.

573 Interview of James Cook, MPS060209001, pp2-7, 07 October 2002.

574 Action A1573, MPS014636001, pp1-2, 11 May 1988.

575 Action A46, MPS059430001, p1, 27 January 2003.

576 Custody record of James Cook, MPS061483001, p9, 07 October 2002.

577 Interview of James Cook, MPS060209001, pp1-9, 07 October 2002.

578 Audio summary, MPS000794001, 07 October 2002.

579 Audio summary, MPS000795001, 07 October 2002.

580 Audio summary, MPS000796001, 07 October 2002.

581 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp95-96, 07 March 2003.

582 Audio summary, MPS000794001, p1, 07 October 2002.

583 Audio summary, MPS000795001, p3, 07 October 2002.

584 Audio summary, MPS000796001, p2, 07 October 2002.

585 Action A227, MPS059661001, pp1-3, 09 October 2002.

information which he had previously provided. The landlord of the Crown public house, a friend of former DS Sidney Fillery, was visited by the police the next day. Former DS Fillery had said that the landlord had been present at a meeting on 14 March 1987 attended by DS Fillery, Jonathan Rees and DC Alan Purvis. When asked about this meeting, the landlord could not recall it, but then stated that if former DS Fillery said that he was at the meeting, then he probably was.<sup>586</sup> At about the same time visits were also made to Margaret Harrison, Jonathan Rees's partner, and to Sharon Rees, Jonathan Rees's former wife.<sup>587,588</sup>

## 10.2 Ongoing surveillance

228. On 08 October 2002, there was further conversation about the arrests between James Cook and an unknown male.<sup>589</sup> He stated:

*“Our problem” inaudible “Tuesday night” – “Gary [sic] know”... Inaudible “Every one of them who knows about” Inaudible. “Drug dealing” Inaudible “Why after 15 years” Inaudible “Fucking–why is it after 15 years” Inaudible ...’.*<sup>590</sup>

229. On 10 October 2002, in order to prompt further conversation at the address of Glenn Vian, police visited Garry and Glenn Vian's mother.<sup>591,592</sup> The officers asked a number of questions about Daniel Morgan's murder. They also questioned her about her previous relationship with Person X8 who had worked for Jonathan Rees on a part-time basis since November 1988.<sup>593,594</sup> Person X8 was then serving a term of imprisonment for killing a woman during an aggravated burglary.<sup>595</sup> A conversation between Garry, Glenn and Kim Vian followed.<sup>596,597</sup>

230. In an apparent reference to Person P9, Garry Vian said ‘*come out in the end do you know what I mean, I know [Person P9] would never say nothing but..’.*<sup>598</sup>

231. Glenn Vian remarked that the police asked their mother about Person X8, who had only recently been sentenced and was in poor health.<sup>599</sup> Garry Vian said ‘*[e]ven though he's got like fifteen, he's dying, he don't want to die in there, you never know what he's coming up with, you know a deal eh?’.*<sup>600</sup>

232. Glenn Vian and Garry Vian then discussed whether the person who had been taken into custody had been released. Glenn Vian thought that the person must have been released as no appearance at the Magistrates' Court had been announced.<sup>601,602</sup> The investigation noted

586 Message M76, MPS059936001, p1, 12 October 2002.

587 Action A225, MPS059659001, p1, 11 October 2002.

588 Action A230, MPS059664001, p1, 10 October 2002.

589 Audio summary, MPS046897001, pp1-4, 08 October 2002.

590 Audio summary, MPS046897001, p3, 08 October 2002.

591 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p97, 07 March 2003.

592 ‘Handover report, Date 10/10/ 02’, MPS048769001, p2, 10 October 2002.

593 Intelligence report, MPS005117001, p1, undated.

594 Witness statement of Person X8, MPS011019001, 08 February 1989.

595 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp97-98, 07 March 2003.

596 Audio summary, MPS060137001, 10 October 2002.

597 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p98, 07 March 2003.

598 Audio summary, MPS060137001, p3, 10 October 2002.

599 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p98, 07 March 2003.

600 Audio summary, MPS060137001, p3, 10 October 2002.

601 Audio summary, MPS060137001, p6, 10 October 2002.

602 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p98, 07 March 2003.

that the *'investigation team is unsure as to whom Glen [sic] was referring to at this stage of the conversation'*.<sup>603</sup> However the Panel assumes that Glenn Vian was referring to James Cook who had been arrested on 07 October 2002.

233. Glenn Vian and Garry Vian then discussed the £50,000 reward and agreed that no one was going to come forward and claim it:

*'Glen [sic] VIAN No one's ever gonna claim that reward.*

*Gary [sic] VIAN Yeah that's right who's ever gonna fucking..... that.....*

*Glen [sic] VIAN Never, ever, ever, spend that fifty grand, never.'*<sup>604</sup>

234. That evening Kim Vian telephoned the police to complain about the conduct of the officers who had visited Garry and Glenn Vian's mother, saying that *'they intimidated her'*.<sup>605</sup>

235. Glenn Vian was recorded saying that if the police wanted to ask him questions they should contact him directly.<sup>606,607</sup> He complained that the police had *'picked on'* his sister, Sharon Rees, because she was no longer with Jonathan Rees, and his mother because she was no longer with Person X8.<sup>608,609</sup> Kim Vian then said, *'[i]f someone told him he only had twelve months to live, he might confess'*.<sup>610</sup>

236. The police believed that Kim Vian was *'talking about [Person X8] being in poor health and that he may provide the police with information'*.<sup>611</sup>

237. On 12 October 2002, one of Glenn Vian's daughters read out a newspaper article which said that the two men who had been arrested had been released. Glenn and Kim Vian and their daughter discussed the article and Glenn Vian explained what the murder was about to his daughter. He also said, *'[t]here's more in there than there is anywhere, (inaudible) fucking tell me (shouting/agitated) (inaudible) might as well cut me throat (?)'*.<sup>612</sup>

238. The Panel believes that the two men referred to are Person P9 and James Cook.

239. Glenn Vian then said: *'I'm (inaudible) interested in what's happenin' with me ex-fucking brother-in-law'*<sup>613</sup> [Jonathan Rees, who by then was separated from Sharon Rees, Glenn Vian's sister]<sup>614</sup> *and I know everybody that's involved.'*<sup>615</sup> He later said, *'[t]he police officer in the murder (inaudible) in the first place now his partner. Sid FILLERY.'*<sup>616</sup>

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603 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p99, 07 March 2003.

604 Audio summary, MPS060137001, p9, 10 October 2002.

605 Audio summary, MPS060140001, p2, 10 October 2002.

606 Audio summary, MPS060140001, p2, 10 October 2002.

607 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p99, 07 March 2003.

608 Audio summary, MPS060140001, p3, 10 October 2002.

609 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p99, 07 March 2003.

610 Audio summary, MPS060140001, p3, 10 October 2002.

611 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p99, 07 March 2003.

612 Audio summary, MPS061134001, 12 October 2002.

613 Audio summary, MPS061134001, p5, 12 October 2002.

614 Action A7, *'Conduct an Intelligence Assessment of Sharon REES & Identify current relationship with William Jonathan REES'*, MPS040868001, 14 April 2003.

615 Audio summary, MPS061134001, p5, 12 October 2002.

616 Audio summary, MPS061134001, p5, 12 October 2002.

240. On 15 October 2002, Garry Vian visited The Surprise public house where he met with two other males, one of whom the police thought was a major drug dealer, linked to a well-known London-based organised crime group.<sup>617,618</sup> A conversation took place during which the purchase of guns, stun grenades and phosphorous bombs was discussed.<sup>619,620,621</sup> As a result of this conversation, the police *'raised the "risk assessment" surrounding a number of individuals who had been approached by the investigation team as potential witnesses'*.<sup>622</sup>

241. On 16 October 2002, the Abelard One/Morgan Two Investigation visited the home address of Glenn Vian's brother-in-law. The officers left DCS David Cook's business card and asked the brother-in-law to contact them. It was hoped that a meeting with the brother-in-law would trigger further conversation within the Vian household.<sup>623</sup>

242. On 17 October 2002, the police visited Glenn Vian's brother-in-law at work, and questioned him about Daniel Morgan's murder, and his association with James Cook and Garry and Glenn Vian. DCS David Cook later said in his advice file that *'[t]he impression given by the investigation team was that police were particularly interested in Gary [sic] VIAN as a suspect'*.<sup>624</sup>

243. This visit triggered a considerable amount of conversation within the Vian home.<sup>625</sup> Kim Vian told Glenn Vian about the police visit. She explained that the police had asked her brother-in-law about James Cook, the green Volkswagen Polo/Golf and Glenn and Garry Vian.<sup>626,627</sup> She then stated:

'[Kim Vian]                      *You're both going away for a long long time.*

[Glenn Vian]'                      *They can't you fucking idiot. It'll never happen.*<sup>628</sup>

244. It is not clear whether these are Kim Vian's words or whether she is relaying part of the conversation between the police and Glenn Vian's brother-in-law.

245. During the conversation Kim Vian twice asked her husband, Glenn, why he was shaking.<sup>629</sup>

246. There was further conversation:

'[Kim Vian]                      *Yeah, it's getting a bit too close to home now innit.*<sup>630</sup>

247. Later, an unknown female spoke:

*'Female                              I'm not being funny but has Gary [sic] actually got anything to do>[sic] What? No?*

617 Intelligence file, MPS008795001, p12, undated.

618 *'Handing Over Report. Date 15/10/2002'*, MPS048778001, p3, 15 October 2002.

619 *'Handing Over Report. Date 15/10/2002'*, MPS048778001, p3, 15 October 2002.

620 Surveillance log books, MPS098155001, p29, undated.

621 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p101, 07 March 2003.

622 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p101, 07 March 2003.

623 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p101, 07 March 2003.

624 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p101, 07 March 2003.

625 Audio summary, MPS050057001, 17 October 2002.

626 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p101, 07 March 2003.

627 Compact disc summary, MPS050057001, pp3-4, 17 October 2002.

628 Compact disc summary, MPS050057001, p3, 17 October 2002.

629 Compact disc summary, MPS050057001, pp3-4, 17 October 2002.

630 Audio summary, MPS043942001, p5, 17 October 2002.

- [Glenn Vian] *Don't talk about it, talking about it won't do anything.  
Don't ask you.*
- Female* *Alright.*
- [Glenn Vian] *Cos it's, you just don't know who's gonna open their mouth.*
- Female* *---?*
- [Glenn Vian] *You've only got to be in here and you're charged with me  
as well.*<sup>631</sup>

248. On 18 October 2002, police again visited Glenn Vian's brother-in-law at work (see paragraph 242 above).<sup>632</sup> A conversation was recorded between Glenn and Kim Vian about '[w]hy pull [Glenn Vian's brother-in-law]?', police corruption and the 'Drug Squad'.<sup>633</sup> They also discussed the stigma for the Metropolitan Police if police officers were involved in the murder of Daniel Morgan and the adequacy of the information which the police had.<sup>634,635</sup>

249. On 19 October 2002, there was conversation between Garry and Glenn Vian speculating about whether the police were occupying the vacant house next door.<sup>636,637</sup> Authority had been given for the Abelard One/Morgan Two Investigation team to purchase the property next door to Glenn Vian's house on 05 July 2002.<sup>638</sup> A risk assessment from a later investigation (see Chapter 8, The Abelard Two Investigation) stated that the property had been covertly purchased on 23 August 2002 '*for the express purpose of covertly gathering evidence in relation to the murder of Daniel Morgan, and specifically to investigate the alleged role of Glen [sic] Vian, the occupier of [the house next door], within the circumstances surrounding the murder*'.<sup>639</sup>

### 10.2.1 The arrest of Garry Vian

250. On 19 October 2002 Garry Vian was arrested in connection with the murder of Daniel Morgan<sup>640</sup> and his girlfriend's house was searched as a result of police becoming aware that he might have possession of a firearm.<sup>641,642,643</sup> No firearm was found during the search.<sup>644,645</sup> On 20 October 2002, Garry Vian was interviewed. He remained silent throughout, apart from showing the injuries he had sustained during the arrest, which he said had included a dog bite and bruising.<sup>646</sup> He was then released.<sup>647</sup>

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631 Audio summary, MPS043942001, pp5-6, 17 October 2002.

632 Message M100, MPS059960001, p1, 18 October 2002.

633 Audio summary, MPS060150001, pp3-4, 18 October 2002.

634 Audio summary, MPS060150001, pp4-6, 18 October 2002.

635 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp102-103, 07 March 2003.

636 Audio summary, MPS050064001, p4, 19 October 2002.

637 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp103-104, 07 March 2003.

638 'Operation "Abelard" Authorities Schedule', MPS053841001, p2, undated.

639 Abelard Two Investigation risk assessment, MPS109471001, p48, 04 August 2006.

640 Custody record of Garry Vian, MPS061455001, pp2-8, 19 October 2002.

641 Copy of information for search warrant, MPS048082001, p2, 19 October 2002.

642 Message M160, MPS040279001, 22 October 2002.

643 Intelligence report, MPS047299001, pp3-4, 21 October 2002.

644 Intelligence report, MPS047299001, pp3-4, 21 October 2002.

645 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p104, 07 March 2003.

646 Interview of Garry Vian, MPS060628001, p1, 20 October 2002.

647 Custody record of Garry Vian, MPS061456001, p10, 20 October 2002.



251. Between 11.55 am and 12.15 pm on 20 October 2002, Glenn Vian was recorded having a telephone conversation with 'John' (whom police believed to be Jonathan Rees). At one point, Glenn Vian said, '*you've been my brother-in-law all*'.<sup>648,649</sup> They discussed the arrest of Garry Vian and then the arrest of Glenn Vian's other brother-in-law.<sup>650,651</sup> Glenn Vian then said:

'Glen [sic] VIAN'      *[Person P9's] walking around and telling everybody he knows whose [sic] done it, so, he's a fucking mind reader, he done it himself, right or someone told him he knows who's done it, so, I don't know, I really don't know, because the man's an absolute fucking bullshitter [...] he thinks everything's funny till they pull in him and he was joking about it, and he said "yeah I know who it is". He said I know who it is, I'm thinking about putting [Glenn VIAN's brother-in-law's] name up in for it, you know what I mean. Two days later they've marched in [Glenn VIAN's brother-in-law] ...*<sup>652</sup>

252. Glenn Vian then mentioned that Person P9 had been asked questions by the police in relation to a car:

'Glen [sic] VIAN      *...then they said did you get rid of the car for them, like for me and Gary [sic], they're dangerous, they said we were prime suspects and did you get rid of the car for them. A car that was used in the job (burps) fuck me, I think they said a green Volkswagen or something green Polo, I don't know, I think it was a green Volkswagen but yeah, that's what's supposed to have happened, yeah, it was a green Volkswagen because [Glenn VIAN's brother-in-law] used to have a green Golf, yeah but that's fucking 5 years ago...*'<sup>653</sup>

253. Glenn Vian also talked about police corruption and how the police,

*'...don't even trust their own, they can't even take you to a London nick, you know what I mean, they've got to go to Hendon where they're all new recruits because they can't trust anybody that's been in the force for a year cause you're bound to be fucking bent.'*<sup>654</sup>

254. He went on to say, '*I'd like my day in court. What you got on me – forensics, much, you prick.*'<sup>655</sup>

648 Audio summary, MPS060157001, pp2-8, 20 October 2002.

649 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p104, 7 March 2003.

650 Audio summary, MPS060157001, pp2-3, 20 October 2002.

651 The Abelard One/Morgan Two Investigation arrested Jonathan Rees who had previously been married to Sharon Rees and therefore had been Glenn Vian's brother-in-law and another male, who at the time of the surveillance, was also Glenn Vian's brother-in-law. The probe material picked up conversation relating to both these men.

652 Audio summary, MPS060157001, p4, 20 October 2002.

653 Audio summary, MPS060157001, p4, 20 October 2002.

654 Audio summary, MPS060157001, p6, 20 October 2002.

655 Audio summary, MPS060157001, p7, 20 October 2002.



255. During the late evening on 21 October 2002 there was a conversation between Glenn and Kim Vian.<sup>656</sup> Glenn Vian said, '[t]hat was their excuse for pulling in four of them cos tomorrow morning he says we kidnap and torture... (inaudible)...'.<sup>657</sup> Later he said 'that's why we've got to be careful about what we do to him...'.<sup>658</sup>

256. As a result of this conversation, it was decided that 24-hour armed surveillance should be carried out on Glenn Vian. The Abelard One/Morgan Two Investigation suspected that Glenn and Garry Vian might attempt to interrogate those whom they suspected of talking to the investigation team.<sup>659,660</sup>

257. During a telephone call on 22 October 2002, Glenn Vian referred to an unidentified person, saying, 'he's probably the only one who's tried to claim the money'.<sup>661</sup> He continued, 'you either do him properly right, like fucking fifteen year ago [inaudible] fucking done it'.<sup>662</sup> The Abelard One/Morgan Two Investigation summarised this as simply 'a lengthy conversation about the investigation'.<sup>663</sup>

258. On 23 October 2002, with the Crown Prosecution Service's agreement, a trigger telephone call was made to Glenn Vian by a police officer.<sup>664,665</sup> The caller stated that they were aware of who was involved in the murder and that she would inform the police of this in order to claim the reward money being offered. However, she said that if Glenn Vian paid her £50,000, she would not do so. She gave a BT telephone kiosk number and asked him to contact her with his decision two days later at a specific time.<sup>666,667</sup>

259. A conversation was then recorded between Glenn and Kim Vian in which he told her about the call.<sup>668</sup> Kim Vian described the call as 'blackmailing' them.<sup>669</sup> DCS David Cook recorded in his advice file that the 'trigger event caused a number of conversations between Glen [sic] and his wife'.<sup>670</sup> Nothing of evidential value was generated and the tactic was not pursued further by the police.

260. On 24 October 2002, Glenn Vian was arrested in connection with Daniel Morgan's murder.<sup>671,672</sup> Police also carried out a search of Glenn Vian's house for '[correspondence], firearms and anything connected with the murder of Daniel MORGAN'.<sup>673,674</sup> No firearm or other material was found during the search.<sup>675</sup> He was taken to a police station and later

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656 Audio summary, MPS060166001, p2, 21 October 2002.

657 Audio summary, MPS060166001, p2, 21 October 2002.

658 Audio summary, MPS060166001, p3, 21 October 2002.

659 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p105, 07 March 2003.

660 'Handing Over Report. Date: 21/10/2002 - 22/10/02', MPS048728001, pp1-2, 22 October 2002.

661 Audio summary, MPS048141001, p5, 22 October 2002.

662 Audio summary, MPS048141001, p6, 22 October 2002.

663 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p106, 07 March 2003.

664 Report book in relation to the telephone conversation made to Glenn Vian, MPS050360001, pp3-11, 23 October 2002.

665 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p106, 07 March 2003.

666 Script of call to Glenn Vian, MPS008471001, 23 October 2002.

667 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p106, 07 March 2003.

668 Audio summary, MPS009914001, pp1-3, 23 October 2002.

669 Audio summary, MPS009914001, pp2-3, 23 October 2002.

670 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p107, 07 March 2003.

671 Custody record of Glenn Vian, MPS102388001, 24 October 2002.

672 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p107, 07 March 2003.

673 Specialist search record for the home address of Glenn Vian, MPS060677001, pp11-12, 24 October 2002.

674 Specialist search record for the home address of Glenn Vian, MPS061505001, pp2-3, 24 October 2002.

675 Specialist search record for the home address of Glenn Vian, MPS061505001, p9, 24 October 2002.

interviewed. He was asked about his association with Jonathan Rees, James Cook and Person P9 and about his knowledge of a green Volkswagen. He declined to answer any questions and was released.<sup>676,677,678</sup>

261. Police made two attempts to interview Person X8 in prison. On 05 November 2002, Person X8 '*stated that he was reluctant to assist Police at this time as...Morgan...deserved all that he had coming to him*'.<sup>679</sup> A second attempt was made in August 2003 when it was recorded that Person X8's response was '*you can stick the £50,000...*'.<sup>680</sup>

262. In 2008, during the subsequent Abelard Two Investigation, Person X8 was interviewed and provided extensive information (see Chapter 8, The Abelard Two Investigation).

263. The only new information which emerged from phase two of the surveillance carried out by the Abelard One/Morgan Two Investigation team was the information in relation to Person D28 and Person D29 providing an alibi for James Cook.

## 11 The third period of covert surveillance: 16 to 20 December 2002

264. A third phase of covert surveillance carried out by the Abelard One/Morgan Two Investigation team occurred between 16 and 20 December 2002 and specifically targeted communications between Glenn Vian and Kim Vian at their home address following a series of arrests.<sup>681,682</sup> T/D/Supt David Zinzan noted that Glenn Vian '*openly discusses the murder with [Kim Vian] and it is clear that she has knowledge*'.<sup>683</sup>

### 11.1 Interview with Jonathan Rees

265. On 16 December 2002,<sup>684</sup> Jonathan Rees was interviewed by the police after he was produced from prison.<sup>685,686,687,688,689</sup> Jonathan Rees was asked about James Ward whom he said he did not know,<sup>690</sup> he said he did not know about the prison officer claiming knowledge of

676 Interview of Glenn Vian, MPS074903001, 24 October 2002.

677 Custody record of Glenn Vian, MPS102388001, pp2 and 11, 24 October 2002.

678 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p107, 07 March 2003.

679 Information report, MPS061517001, pp2-3, 05 November 2002.

680 Message M192, MPS005817001, p1, 06 August 2003.

681 '*Instructions re Covert Audio Probes*', MPS054202001, pp1-2, 16 December 2002.

682 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp109-111, 07 March 2003.

683 '*Instructions re Covert Audio Probes*', MPS054202001, p2, 16 December 2002.

684 Custody record of Jonathan Rees, MPS061539001, 16 December 2002.

685 Interview of Jonathan Rees (12:47-13:06), MPS060620001, pp2-25, 16 December 2002.

686 Interview of Jonathan Rees (13:45-14:02), MPS060621001, pp2-19, 16 December 2002.

687 Interview of Jonathan Rees (14:38-15:02), MPS060622001, pp2-27, 16 December 2002.

688 Interview of Jonathan Rees (15:45-16:16), MPS060623001, pp2-34, 16 December 2002.

689 Interview of Jonathan Rees (16:17-16:23), MPS060624001, pp2-6, 16 December 2002.

690 Interview of Jonathan Rees, MPS060623001, pp33-34, 16 December 2002.

the murder, and denied that Daniel Morgan's murder was referred to as '*the HP murder*'.<sup>691</sup> No new evidence was secured as a consequence of this interview. Jonathan Rees was returned to prison.<sup>692,693</sup>

## 11.2 The arrest of James Cook on 16 December 2002

266. On Monday 16 December 2002, James Cook, having returned to custody from police bail, was arrested on suspicion of conspiracy to pervert the course of justice by manufacturing a false alibi with Person D28 and Person D29<sup>694</sup>. He was questioned under caution about this.<sup>695,696</sup> He gave 'no comment' answers throughout.

267. James Cook was also questioned about a telephone call between him and Jonathan Rees immediately following the publication of an article in the *Daily Telegraph* on 02 July 1999,<sup>697</sup> and about what he had said during a telephone call on 05 October 2002, following the arrest of Person P9 on 03 October 2002. He was asked whether he had given a green Volkswagen car to Person P9 to look after on 10 March 1987 and whether he had told Person P9 that he had witnessed the murder of Daniel Morgan. He was also asked whether he had knowledge of police corruption.<sup>698</sup> He responded '*no comment*' to each of these questions.<sup>699,700</sup>

## 11.3 The interview and subsequent arrest of Person D28 and Person D29

268. Police suspected that Person D28 and Person D29 had been fabricating an alibi for James Cook when he took them for dinner on 03 October 2002.<sup>701,702</sup> Police had visited them on 21 November 2002. Person D29 had told police that James Cook had been at their house on the night of the murder, but they both declined to make statements at that time, saying they would only do so in the presence of their solicitor (who was also James Cook's solicitor).<sup>703</sup> On 27 November,<sup>704,705</sup> the police met Person D28 and Person D29 in the presence of their solicitor. They were not treated as suspects. Police enquired about their knowledge of James Cook and his movements on the night of the murder. They both gave statements providing James Cook with an alibi.<sup>706,707,708,709,710</sup>

269. In his statement, Person D28 said:

*'I can remember during one of these visits Jimmy stated that a friend of a friend had been murdered the previous night. I was taken aback at this statement. I said, "who was it Jim, a close friend". He said, "no, I [sic] friend of a friend". I didn't ask any more*

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691 Interview of Jonathan Rees, MPS060623001, pp33-34, 16 December 2002.

692 Custody record of Jonathan Rees, MPS061539001, p4, 16 December 2002.

693 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp109-110, 07 March 2003.

694 Custody record of James Cook, MPS061482001, pp5-7, 16 December 2002.

695 Interview of James Cook, MPS000687001, 16 December 2002.

696 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p110, 7 March 2003.

697 Interview of James Cook, MPS000686001, p2, 16 December 2002.

698 Interview of James Cook, MPS000690001, 16 December 2002.

699 Interview of James Cook, MPS000686001, 16 December 2002.

700 Interview of James Cook, MPS000690001, 16 December 2002.

701 '*Handing Over Report. Date 03/10/2002*', MPS048803001, p2, 04 October 2002.

702 Audio summary, MPS006254001, pp3-4, 03 October 2002.

703 Action A286, MPS059724001, p1, 21 November 2002.

704 Action A286, MPS059724001, p2, 28 November 2002.

705 Sequence of events chart, MPS105055001, p6, 07 May 2009.

706 Interview of Person D29, MPS060216001, 27 November 2002.

707 Interview of Person D28, MPS060220001, 27 November 2002.

708 Witness statement of Person D29, MPS006261001, 27 November 2002.

709 Witness statement of Person D28, MPS006265001, 27 November 2002.

710 Sequence of events chart, MPS105055001, p6, 07 May 2009.

*about the murder. I can however state that the previous evening Jimmy had been with myself and [Person D29] at our home address. I can definitely recall that Jimmy arrived at our house between 7.30 pm and 8 pm and left at about 10 pm to 10.15 pm.*

*'Approximately six or seven weeks later Jimmy asked me and [Person D29] to attend a solicitors [sic] office to state where he was on the night of the murder. At that time the incident was still fresh in my mind. I was willing to make a statement, as was [Person D29], but I had to work on the day in question and [Person D29] attended the solicitors with Jimmy Cook. As far as I am concerned, the murder wasn't really discussed after that until Jimmy was arrested during 2002. He attended our home address and told us he had been arrested on suspicion of murder of the friend of a friend. He said he had been asked a few questions and released on bail. I was shocked and both myself and [Person D29] offered to assist because we knew he was with us on the night of the murder. Jimmy thanked us but stated that he didn't want to involve us because he was worried about [Person D29's] health.'*<sup>711</sup>

270. Person D29 made a statement in which she claimed that when James Cook told her of the murder she responded '[...]"well you've got no worries have you Jim, because you were here" and he replied, "I'm not worried [...]"'. She subsequently said: '[...]"do you want me to go to a solicitors [sic] with you to make a statement" and he said, "not yet, I don't really want to involve you"'.<sup>712,713</sup>

271. The Panel shares the police suspicions that James Cook's purpose in his discussions with Person D28 and Person D29 on 03 October 2002 was to arrange a false alibi for himself for the night of the murder. However, having initially formed those suspicions as a result of monitoring the conversation, it was wrong to have then sought to interview Person D28 and Person D29 as witnesses. The police already had enough evidence to suspect them of conspiring with James Cook to pervert the course of justice and had reasonable grounds to arrest them, which would have been the proper course of action. The actions of the police could be regarded as entrapment and have resulted in the statements being excluded in any subsequent legal proceedings. Indeed, this was later pointed out by Counsel advising on the case (see paragraph 484i below).

272. On 16 December 2002, Person D28 and Person D29 were arrested on suspicion of conspiring to pervert the course of justice by providing James Cook with a false alibi. They were taken to Croydon Police Station for interview.<sup>714,715,716</sup>

273. Police were told that '*due to his client's health problems*', Person D29's solicitor had advised her not to respond to questions.<sup>717</sup> Person D29 made 'no comment' responses to all questions.<sup>718</sup>

711 Witness statement of Person D28, MPS006265001, pp4-5, 27 November 2002.

712 Witness statement of Person D29, MPS006261001, p5, 27 November 2002.

713 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p109, 7 March 2003.

714 Custody record of Person D28, MPS061607001, 16 December 2002.

715 Custody record of Person D29, MPS061608001, 16 December 2002.

716 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p110, 07 March 2003.

717 Interview of Person D29, MPS060219001, 16 December 2002.

718 Interview of Person D29, MPS060219001, 16 December 2002.

274. Person D28 was also interviewed in the presence of his solicitor. He was asked about the conversation recorded in James Cook's car between himself, his wife and James Cook. He said that the first conversation they had had about the murder since 1987 was on the day when James Cook had been arrested on 07 October 2002. When challenged about the tape-recording made on 03 October 2002, he was unable to explain it satisfactorily.<sup>719,720</sup> When asked how the conversation about the murder came up, he said '*Jim might have said something and erm... and then we must have been talking about it then, you know*'.<sup>721,722</sup> Regarding the transcript material he said the following:

*'[W]e haven't really said anything ... to me I can't ... I can't see how we said anything really spectacular in any way. All we've said is that Jim come round and said to us about a friend of a friend murdered – he was murdered the night before. And as far as we remember he was round the night before.'*<sup>723</sup>

275. Person D28 and Person D29 were released on police bail to attend Croydon Police Station on 16 January 2003.<sup>724,725</sup>

#### 11.4 Reactions to the arrests

276. On 16 December 2002 Glenn Vian's daughter attended Croydon Police Station on an unrelated matter and met some of the investigating officers, who told her that Jonathan Rees and James Cook were in custody.<sup>726,727</sup> Investigating officers used this opportunity to share this information to prompt further response. Following this, a series of monitored conversations between Glenn and Kim Vian were captured, in the course of which Glenn Vian said, '*[o]bviously they know that Jimmy Cook's not got an alibi*'.<sup>728</sup> He later said, '*[w]hat he's done is he's got them as an alibi and he's got it wrong (inaudible)*'.<sup>729</sup>

277. Glenn and Kim Vian also discussed what would happen if Kim Vian was a witness and provided an alibi for Glenn Vian.<sup>730</sup> But he said, '*[n]ow do you understand by not having a witness they have to run their chances with me and I'll fucking take the chance of not having an alibi*'.<sup>731</sup> He made it clear that he did not think Kim Vian would withstand questioning in the witness box about any alibi she gave, when he said: '*I certainly wouldn't let you get in the box. Cos you're about as steady as a rock without no cement round it.*'<sup>732</sup>

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719 Interview of Person D28, MPS060635001, pp16-28, 16 December 2002.

720 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp110-111, 07 March 2003.

721 Interview of Person D28, MPS060635001, pp27-28, 16 December 2002.

722 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p111, 07 March 2003.

723 Interview of Person D28, MPS060636001, p5, 16 December 2002.

724 Custody record of Person D28, MPS061607001, p9, 16 December 2002.

725 Custody record of Person D29, MPS061608001, p10, 16 December 2002.

726 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p111, 07 March 2003.

727 '*Enhanced transcript VIAN house 16/12/2002*', MPS000882001, pp1-2, 14 July 2009.

728 '*Enhanced transcript VIAN house 16/12/2002*', MPS000882001, p2, 14 July 2009.

729 '*Enhanced transcript VIAN house 16/12/2002*', MPS000882001, p13, 14 July 2009.

730 '*Enhanced transcript VIAN house 16/12/2002*', MPS000882001, pp11-12, 14 July 2009.

731 '*Enhanced transcript VIAN house 16/12/2002*', MPS000882001, p11, 14 July 2009.

732 '*Enhanced transcript VIAN house 16/12/2002*', MPS000882001, p11, 14 July 2009.



278. Glenn and Kim Vian speculated about what the police could be asking James Cook and said the following:

*'Glen [sic] VIAN ...Jimmy's questions are about Belmont Auctions right and disposing of motors right (inaudible) custody.*

*Kim VIAN (Inaudible).*

*Glen [sic] VIAN Well they've either got nothing at all to charge us with right maybe John fucking (inaudible) above us.'*<sup>733</sup>

279. With reference to James Cook and his alibi, Glenn Vian remarked, *'I don't know where he was it's got fuck all to do with me'*. He followed this with, *'I don't know how he can remember anything, about too much (inaudible) time I suppose'*.<sup>734</sup> On 16 December 2002, Glenn Vian had a telephone conversation, believed to be with his brother Garry, and discussed the arrest of James Cook and Jonathan Rees, saying that he thought that the police were possibly waiting to see how Glenn and Garry Vian would respond.<sup>735,736</sup> Glenn Vian and Kim Vian discussed a letter to his solicitor which said that a report was being submitted to the Crown Prosecution Service. He then said: *'Maybe the CPS [Crown Prosecution Service] is looking said you ain't got enough.'*<sup>737,738</sup>

280. There was further discussion about James Cook arranging an alibi for himself for the night of Daniel Morgan's murder. Glenn Vian said:

*'Right cos what he's done is he's got them as an alibi and he's got it wrong (inaudible). No backbone or whatever he's done, cos you don't know right but that's what's that's what [sic] going on now [...] do you understand I'd rather run the gauntlet than fucking go down as a 50/50 chance.'*<sup>739</sup>

281. No action was taken to question Kim Vian about her husband's whereabouts on the night of the murder, or about anything she knew about the murder. Questioning Kim Vian was unlikely to have been fruitful, nevertheless she should have been questioned about where Glenn Vian was on the night of Daniel Morgan's murder.

## 11.5 Former DS Sidney Fillery: searches and arrest

282. Former DS Sidney Fillery was not listed in the 2000 Murder Review as either a *'key witness'* or *'key suspect'*.<sup>740</sup> The 2000 Murder Review considered three issues dealt with by former DS Fillery as part of the Morgan One Investigation.<sup>741,742,743</sup> It recommended that these

733 Audio summary, MPS060190001, p2, 16 December 2002.

734 Audio summary, MPS060191001, pp3-4, 16 December 2002.

735 Audio summary, MPS060191001, p5, 16 December 2002.

736 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p112, 07 March 2003.

737 *'Enhanced transcript VIAN house 16/12/2002'*, MPS000882001, pp11, 14 July 2009.

738 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p112, 07 March 2003.

739 *'Enhanced transcript VIAN house 16/12/2002'*, MPS000882001, p13, 14 July 2009.

740 2000 Murder Review Report, MPS020525001, pp13-30, 06 October 2000.

741 2000 Murder Review Report, MPS020525001, p49, para 6.12.15, 06 October 2000.

742 2000 Murder Review Report, MPS020525001, p50, para 6.12.25, 06 October 2000.

743 2000 Murder Review Report, MPS020525001, pp62-63, paras 6.13.11, 6.13.13, 6.13.15, 6.13.18 and 6.13.19, 06 October 2000.

issues be re-investigated<sup>744,745,746</sup> and, significantly, also suggested that *'[a]ll enquiries conducted by FILLERY into the murder of MORGAN should be reassessed',<sup>747</sup> and that 'a review of all actions resulted by FILLERY be undertaken'.<sup>748</sup>*

283. Following surveillance, on 13 December 2002 a warrant was obtained to search former DS Sidney Fillery's home address and the offices of Law & Commercial, the material sought being a *'file or documents relating to the Belmont Car Auctions'* and *'[a]ny other information either hard copy or contained within other electronic/computer systems that relate to the investigation into the murder of Daniel MORGAN between 1987 and the present day'.<sup>749</sup>*

284. On 17 December 2002, former DS Sidney Fillery's home address, the offices of Law & Commercial and a boat called 'Matatu', in Southampton, in which former DS Fillery had a part-share, were searched. The investigation team were searching in particular for the missing Belmont Car Auctions file and other material relating to Daniel Morgan's murder (see Chapter 1, The Morgan One Investigation).<sup>750,751,752,753</sup> DCS David Cook noted that as part of the search, *'[t]wo computer base units, a computer, and a quantity of correspondence was seized from the offices of Law and Commercial'.<sup>754</sup>*

285. On 17 January 2003, former DS Sidney Fillery was arrested at the offices of Law & Commercial for offences unrelated to the murder of Daniel Morgan.<sup>755,756</sup> He was charged and appeared in May 2003 before Bow Street Magistrates Court. After entering a plea of guilty, he received a non-custodial sentence on 24 October 2003.<sup>757</sup>

286. At the same time, former DS Sidney Fillery was also arrested on suspicion of misconduct in public office relating to the murder of Daniel Morgan.<sup>758,759,760</sup>

287. In one of the interviews with former DS Sidney Fillery, his solicitor read out a prepared statement:

*'I Sidney FILLERY understand that I am to be questioned in relation to an allegation of malfeasance. This relates to matters that happened nearly 16 years ago. It would not be fair to myself to try to recall exact details after that length of time. I have been questioned previously at length about this matter. I rely on that which I said in 1987, a copy of which I have been shown. I reiterate that I did not ask Peter NEWBY for the Belmont Auction File on Wednesday 11 March 1987 or at any other time. He did not hand this to me and I did not take possession of this file at any stage, indeed I have no recollection of ever seeing this file. I did not tamper with or remove documents*

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744 2000 Murder Review Report, MPS020525001, p49, paras 6.12.15-6.12.16, 06 October 2000.

745 2000 Murder Review Report, MPS020525001, p50, paras 6.12.25-6.12.26, 06 October 2000.

746 2000 Murder Review Report, MPS020525001, pp62-63, paras 6.13.11, 6.13.13, 6.13.15, 6.13.18 and 6.13.19, 06 October 2000.

747 2000 Murder Review Report, MPS020525001, p49, para 6.12.15, 06 October 2000.

748 2000 Murder Review Report, MPS020525001, p49, para 6.12.17, 06 October 2000.

749 'INFORMATION FOR SECTION 8 P.A.C.E WARRANT', MPS061617001, pp2-3, 13 December 2002.

750 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp112-113, 07 March 2003.

751 'Premises Search Book', former DS Sidney Fillery's home address, MPS061537001, pp5-13, 17 December 2002.

752 'Premises Search Book', Law & Commercial, MPS061541001, pp2-7, 17 December 2002.

753 'Premises Search Book', Matatu, MPS061545001, p3, 17 December 2002.

754 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p113, 07 March 2003.

755 Custody Record of former DS Sidney Fillery, MPS062202001, pp2-17, 17 January 2003.

756 Interview of former DS Sidney Fillery, MPS060230001, p6, 17 January 2003.

757 Advice File R v Glenn Vian, Garry Vian, James Cook, William Rees, and Sidney Fillery, MPS103338001, p175, 13 June 2007.

758 Custody record of Sidney Fillery, MPS062202001, p2, 17 January 2003.

759 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p116, 07 March 2003.

760 Report book of a Detective Constable, MPS060650001, p11, 17 January 2003.

*or papers from this file as is being suggested. I would be interested to know which documents, papers or items I am alleged to have removed from the file.*<sup>761</sup>

288. A Detective Constable then said that she still had to ask some questions about the Belmont Car Auctions file, in response to which former DS Sidney Fillery's solicitor advised him to make no comment.<sup>762</sup>

289. Former DS Sidney Fillery was then shown a copy of the exhibit book from the Morgan One Investigation and directed to 11 entries which the investigating officer suggested were the exhibits removed during a search of Southern Investigations offices on 11 March 1987, at which former DS Fillery was present.<sup>763,764</sup>

290. Former DS Sidney Fillery replied as follows:

*'First of all I have no control over what went in this book, it's [sic] not my writing, I have no control over it at all so I can't adopt this book. Secondly, I'd say this – that I'm very.. I did not allocate numbers, anything on this book. Secondly, I'm very suspicious of the neatness of the writing in this book, and I would put it to anybody that this is a re-written book, this is re-written. It's far too neat and tidy. You know as well as I do that a murder room .. on the first day after the murder is chaotic and there's bits and pieces coming in everywhere. This writing is just far too neat, it's too neat to be believable. Finally, I am aware and I make no adverse comment about the young man concerned, but I am aware that the Detective Officer who was Exhibits Officer in the case was disciplined because of the nature of his work.'*<sup>765</sup>

291. In the same interview he later said:

*'So.. I make no other comment, I mean.. I don't want to castigate that young man, erm.. it might have been the fault [sic] of others above him. But all I'm saying is I cannot adopt this book or any information. I have no control what was written in this book at all.'*<sup>766</sup>

292. The interviewers asked former DS Sidney Fillery whether he recognised the 11 exhibits listed in the Exhibits Book as being the exhibits which he retrieved from the offices of Southern Investigations on 11 March 1987. Former DS Fillery replied:

*'Right bearing in mind that these matters were 16 years ago [...and] on the advice of my solicitor I now fall back on my written statement and the verbal comments I've just made with regard to this book and I make no further comment.'*<sup>767</sup>

293. The investigators continued to question former DS Sidney Fillery about the Exhibits Book, including the fact that the Belmont Car Auctions file did not appear in the list of exhibits removed from the offices of Southern Investigations. Former DS Fillery was also questioned

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761 Interview of former DS Sidney Fillery, MPS060609001, p3, 17 January 2003.

762 Interview of former DS Sidney Fillery, MPS060609001, p4, 17 January 2003.

763 Interview of former DS Sidney Fillery, MPS060609001, pp4-5, 17 January 2003.

764 Interview of former DS Sidney Fillery, MPS060611001, pp2-3, 17 January 2003.

765 Interview of former DS Sidney Fillery, MPS060611001, p3, 17 January 2003.

766 Interview of former DS Sidney Fillery, MPS060611001, p4, 17 January 2003.

767 Interview of former DS Sidney Fillery, MPS060611001, p4, 17 January 2003.

regarding the statement of Peter Newby<sup>768</sup> dated 30 March 1987, in which Peter Newby stated that on 11 March 1987 the Belmont Car Auctions file was handed to former DS Fillery. Former DS Fillery continued to make no comment in response to the questions.<sup>769</sup>

294. The 2000 Murder Review had identified three other specific issues in relation to former DS Sidney Fillery. These were investigated by the Abelard One/Morgan Two Investigation.

295. The first issue related to DS Sidney Fillery, while working for the Morgan One Investigation, having been tasked to investigate whether Southern Investigations had '*Partnership*' insurance, and to obtain relevant papers and statements.<sup>770,771</sup> Had such insurance existed, it might have provided a motive for the murder of Daniel Morgan.<sup>772</sup> DS Fillery had reported that Jonathan Rees had said that no such insurance existed. DS Fillery had not taken any statement to confirm this.<sup>773,774</sup>

296. The Abelard One/Morgan Two Investigation established that Daniel Morgan and Jonathan Rees had had no partnership insurance, although they had been considering a partnership insurance policy for £50,000 but were only in the consultation stage at the time of Daniel Morgan's murder.<sup>775</sup>

297. The second issue involved a direction to research an individual with a distinctive nickname who lived in Sydenham, and who, it had been suggested, was the person responsible for the murder.<sup>776,777</sup> The person who provided this information was never identified, but the enquiry officer recorded his feeling that the information was genuine.<sup>778</sup> The following day, 15 March 1987, DS Sidney Fillery came on duty at 12.00 noon.<sup>779</sup> It was his last day on the Morgan One Investigation (see Chapter 1, The Morgan One Investigation), and the matter was reallocated on 16 March 1987 to a Detective Constable and returned with basic details of a named individual. It was subsequently decided that no further action was required.<sup>780,781</sup>

298. Subsequently the Hampshire/Police Complaints Authority Investigation established that the individual in question was in Australia between December 1986 and May 1988. He had no convictions for violent crime. The Hampshire/Police Complaints Authority Investigation did not take the matter any further.<sup>782</sup>

299. In November 2002, the individual was interviewed. He said that as far as he was aware, he had never been referred to by the nickname which had been provided to the police. He did not know anyone else who had lived in the road who might have had the same first name. He was unable to assist the enquiry.<sup>783</sup>

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768 Office Manager at Southern Investigations at the time of the murder.

769 Interview of former DS Sidney Fillery, MPS060611001, pp4-7, 17 January 2003.

770 Action A153, MPS013216001, p1,14 March 1987.

771 2000 Murder Review Report, MPS020525001, p49, para 6.12.15, 06 October 2000.

772 2000 Murder Review Report, MPS020525001, p49, para 6.12.15, 06 October 2000.

773 Action A153, MPS013216001, p1, 15 March 1987.

774 2000 Murder Review Report, MPS020525001, p49, para 6.12.15, 06 October 2000.

775 Action A55, MPS059445001, 08 October 2002.

776 Action A176, MPS013239001, 14 March 1987.

777 2000 Murder Review Report, MPS020525001, p50, para 6.12.25, 06 October 2000.

778 2000 Murder Review Report, MPS020525001, p50, para 6.12.25, 06 October 2000.

779 '*Copy of FILLERY's duty sheet 090387 – 150387*', MPS015408001, p5, 16 March 1987.

780 Action A176, MPS013239001, pp1-2, 16 March 1987.

781 2000 Murder Review Report, MPS020525001, p50, para 6.12.25, 06 October 2000.

782 Action A550, MPS032477001, 17 July 1989.

783 Action A59, MPS059449001, 28 November 2002.

300. Once it had been established that DS Sidney Fillery was not able to deal with the matter as he was no longer involved in the Morgan One Investigation, the only issue was to establish whether the individual with the allegedly distinctive nickname could have been involved in the murder. This was done and the matter was dealt with properly by the Abelard One/Morgan Two Investigation.

301. The third issue related to documents and items missing from the Morgan One Investigation. The 2000 Murder Review Report had noted that some 32 documents generated by the Morgan One Investigation were missing from the investigation file of documents<sup>784</sup> and had recommended that '*efforts are made to obtain again all documents found to be missing from the system*'.<sup>785</sup>

302. The 2000 Murder Review Report recorded that some of the missing documents might be of significance in the context of former DS Sidney Fillery or the Belmont Car Auctions matter. Documents and items identified as missing from the Morgan One Investigation included the following:

- i. A document entitled '*Southern Investigations Bill to Belmont Car Auctions*'.<sup>786</sup>

The Murder Review Report had recommended that '*research [be] done to establish the significance of the missing documents relating to DS FILLERY and Belmont Car Auctions*'.<sup>787</sup> This document was subsequently found.

- ii. Significant information had been received by the Morgan One Investigation which included an allegation that a man called Leonard Beauchamp and an unnamed Police Sergeant had been present when the murder of Daniel Morgan had been discussed (see Chapter 1, The Morgan One Investigation) and that a tape-recording of that meeting existed which was '*with a legal man near Gatwick*'.<sup>788</sup> A *Police Gazette* Special Notice had been issued regarding the murder of Daniel Morgan, which had contained an appeal for any officers with knowledge of Leonard Beauchamp (also known as Sanderson) to contact the incident room.<sup>789</sup> Despite extensive investigation of this matter, the Morgan One Investigation had been unable to find Leonard Beauchamp or a copy of the tape which he had said existed.

The Murder Review Group had recommended that '*enquiries into Leonard BEAUCHAMP and an alleged tape recording should be revisited*'.<sup>790</sup>

No tape was ever found. However, it was decided that the detailed and substantial information received from the person calling himself Leonard Beauchamp merited further investigation.<sup>791,792,793</sup>

784 2000 Murder Review Report, MPS020525001, pp60-63, 06 October 2000.

785 2000 Murder Review Report, MPS020525001, p63, para 6.13.19, 06 October 2000.

786 Document D355, '*Southern Investigations bill to Belmont Car Auctions*', MPS011408001, 08 and 14 March 1987.

787 2000 Murder Review Report, MPS020525001, p62, para 6.13.13, 06 October 2000.

788 Witness statement of Person U25, MPS018487001, p1, 04 November 1987 (indicated signed).

789 Document D422, '*Police Gazette Special Notice re Leonard BEAUCHAMP*', MPS011475001, 20 November 1987.

790 2000 Murder Review Report, MPS020525001, p23, para 6.13.15, 06 October 2000.

791 Action A149, MPS059569001, 03 September 2002.

792 Document D233, Research docket regarding Beauchamp, MPS061838001, undated.

793 Action A84, '*Make further enquiries into BEAUCHAMP N113 and the alleged tape recording*', MPS059483001, p1, 09 July 2002.



The Abelard One/Morgan Two Investigation team made further enquiries in relation to Leonard Beauchamp and the tape-recording, and having failed to identify Leonard Beauchamp, spoke to the *'female head of the BEAUCHAMP family in Farnborough'*, which is near Gatwick. She did not know Leonard Beauchamp and stated that *'[s]he has no knowledge of any tape recordings and feels confident if any male member of her family had she would know'*.<sup>794</sup>

The Abelard One/Morgan Two Investigation team, despite making further enquiries, were unable to find Leonard Beauchamp or the tape which he had alleged existed.<sup>795</sup>

- iii. A numbered document from the Morgan One Investigation which could not be found and was believed by the Murder Review Group to have been created in error in the system.

It was later established that this document did in fact exist and it was a letter and affidavit from a firm of solicitors.<sup>796</sup>

- iv. A document entitled *'Notes of FILLERY's relationship with REES Y'* and numbered D470. This document was cross-referenced to Jonathan Rees and former DCI Laurence Bucknole.

The 2000 Murder Review Report had noted that there was no *'REES Y'* on the computer system and recommended that former DCI Laurence Bucknole should be *'seen to establish the identity of "REES Y" and significance of the Notes of FILLERY's relationship with "REES Y"'*.<sup>797</sup>

Former DCI Laurence Bucknole was interviewed concerning the relationship between DS Sidney Fillery and somebody called 'Rees Y'. He said that he didn't know any person by that name. An examination of the original Morgan One Investigation document by the Panel shows that the handwritten title was, *'Notes of Sid FILLERY's relationship with REES.'*<sup>798</sup> The addition of a letter 'Y' appears to have been a typing error.

303. The Abelard One/Morgan Two Investigation also carried out an inventory of all the filing cabinets, including the Hampshire/Police Complaints Authority Investigation filing cabinet found after the 2000 Murder Review had been completed (see Chapter 5, The 2000 Murder Review). Ultimately, all the missing documents were found.<sup>799</sup>

304. The 2000 Murder Review Report, and the Abelard One/Morgan Two Investigation, should have given equal weight not only to former DS Sidney Fillery's activities during the period of his participation in the Morgan One Investigation, but also to any possible compromise of the investigations into Daniel Morgan's murder, by him through his known contacts, after he left the Morgan One Investigation, and later when he retired on medical grounds from the police in 1988.

794 Action A84, *'Make further enquiries into BEAUCHAMP N113 and the alleged tape recording'*, MPS059484001, 03 September 2002.

795 Action A84, MPS059484001, 09 July 2002.

796 Document D449, *'Letter & affidavit from Dodd Solicitors'*, MPS011562001, 15 December 1987.

797 2000 Murder Review Report, MPS020525001, p63, paras 6.13.17 and 6.13.18, 06 October 2000.

798 Document D470, *'Notes of Sid FILLERY's relationship with REES'*, MPS011583001, undated.

799 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p140, undated.

## 12 Interviews with former members of the Morgan One Investigation team

305. Although the Murder Review Report had not recommended interviewing the Morgan One Investigation officers,<sup>800</sup> in November 2002 DCS David Cook had instructed that ‘*officers on the original enquiry*’ should be interviewed. A Detective Sergeant identified 15 officers for interview.<sup>801</sup> It was determined by A/DCI Neil Hibberd, on 27 November 2002, that these interviews could yield information, as ‘*[d]ue to the passage of time certain members of the original inquiry may now be in a position to discuss certain aspects of the investigation, the group dynamics within the team, and comment upon those suspected of involvement in the murder at the time*’.<sup>802</sup> On 28 November 2002, four more officers were added to the Detective Sergeant’s list.<sup>803</sup>

306. The list of Morgan One Investigation officers DCS David Cook identified for interview was incomplete, as nine other officers have been identified by the Panel.<sup>804,805,806</sup> Furthermore it did not include officers who, although they were not part of the Morgan One Investigation, nonetheless played a part in the investigation, by attending the murder scene, for example. These officers might also have contributed to the picture which the Abelard One/Morgan Two Investigation was seeking to assemble.

307. Of the 19 officers in total who were identified for interview, WDC Julie Benfield was listed twice, and the investigation team were unable to locate WDC Christine Fowles.<sup>807,808,809</sup>

308. Police Officer A27, former PC Stephen Thorogood, DC Paul Lombard, WDC Julie Benfield and WPC Maureen Fentiman were interviewed before DCS David Cook submitted his advice file to the Crown Prosecution Service on 07 March 2003. All other Morgan One Investigation officers were interviewed after DCS David Cook submitted his advice file to the Crown Prosecution Service (see paragraph 377 below).

800 2000 Murder Review Report, MPS020525001, pp83-91, 06 October 2000.

801 Message M113, MPS059973001, p1, 21 November 2002. The 15 officers were: D/Supt Douglas Campbell; DI Allan Jones; DS Malcolm Davidson; DS Brian Davies; DC Clive Blake; DC Michael Crofts; DC Richard Davis; DC Kinley Davies; DC Donald Leslie; DC Paul Lombard; Police Officer A27; WDC Christine Fowles; WDC Julie Benfield; WPC Maureen Fentiman; and a Woman Police Constable.

802 ‘*Decision*’, EDN001061001, 27 November 2002.

803 Message M120, MPS059980001, p1, 28 November 2002. The additional four officers were: PC Stephen Thorogood; WDC Julie Benfield; Police Officer N21; and PC Derek Haslam.

804 Typed copies of handwritten actions A1- A1731 of the Morgan One Investigation, MPS083125001, 26 January 2015.

805 Witness statement of a Woman Police Constable, MPS018549001, 07 June 1989.

806 Witness statement of a Police Constable, MPS018559001, 15 June 1989.

807 Message M113, MPS059973001, p1, 21 November 2002.

808 Message M120, MPS059980001, p1, 28 November 2002.

809 Action A308, MPS059750001, 25 February 2003.

309. Nine of the officers – a Detective Sergeant,<sup>810</sup> DC Clive Blake,<sup>811</sup> DC Richard Davis,<sup>812</sup> DC Donald Leslie,<sup>813</sup> DC Paul Lombard,<sup>814</sup> Police Officer A27,<sup>815</sup> WDC Julie Benfield,<sup>816</sup> WPC Maureen Fentiman,<sup>817</sup> and another Woman Police Constable<sup>818</sup> – were unable to provide any information which could assist the investigation.

310. The remaining eight officers who were located for interview provided information (see below). According to the material available, DS Malcolm Davidson was asked about Daniel Morgan's missing Rolex watch. DS Malcolm Davidson stated '[h]e *did not see a watch on MORGAN's wrist*'<sup>819</sup> (see Chapter 1, The Morgan One Investigation).

## 12.1 Former PC Stephen Thorogood

311. On 29 January 2003, former PC Stephen Thorogood was interviewed and made a witness statement.<sup>820,821</sup> He said that on 11 March 1987 he had attended the offices of Southern Investigations, with his supervisor, DS Sidney Fillery, and other members of the Catford Crime Squad. He stated that he could remember a bag being used to collect diaries and papers, but could not recall any particular papers, nor a file marked 'Belmont Car Auctions'.<sup>822</sup> Former PC Thorogood's statement disclosed no further lines of enquiry.

## 12.2 Former DC Michael Crofts

312. Former DC Michael Crofts was interviewed on 01 April 2003.<sup>823</sup> In a summary of the interview, the following was recorded:

- i. Former DC Crofts said that former DC Peter Wilkins, who carried out occasional work for Southern Investigations (see Chapter 1, The Morgan One Investigation), had said that Daniel Morgan '*had received information about [Kenneth] Noye and Brinks Mat [sic] and was going to sell the story to the papers*'. Former DC Crofts said that he had '*put in a message to that effect but the message disappeared*'.

This information is not recorded as having been submitted to the Morgan One Investigation by then DC Crofts. Similar information had, however, been submitted by DC Kinley Davies<sup>824</sup> with whom DC Crofts worked, however this did not include reference to Kenneth Noye.

- ii. Former DC Crofts said that '*Glen [sic] VIAN was a runner for Kenneth Noye and John [sic] Rees also had an association with him and had given Morgan some information in relation to Noye*'.<sup>825,826</sup>

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810 Action A305, MPS059747001, 10 April 2003.

811 Action A302, MPS059744001, 20 June 2003.

812 Action A304, MPS059746001, 27 May 2003.

813 Action A306, MPS059748001, pp2-3, 15 May 2003.

814 Action A307, MPS059749001, 28 February 2003.

815 Action A215, MPS059645001, pp1-2, 04 October 2002.

816 Action A309, MPS059751001, pp1-2, 10 February 2003.

817 Action A310, MPS059752001, pp1-2, 08 April 2003.

818 Action A311, MPS059753001, pp1-2, 08 May 2003.

819 Action A188, MPS059613001, 20 May 2003.

820 Action A313, MPS059755001, pp1-2, 07 February 2003.

821 Witness statement of former PC Stephen Thorogood, MPS062463001, 29 January 2003.

822 Witness statement of former PC Stephen Thorogood, MPS062463001, pp1-2, 29 January 2003.

823 Action A303, MPS059745001, pp2-3, returned 01 April 2003.

824 Message M423, MPS012483001, 06 August 1987.

825 Action A303, MPS059745001, pp2-3, returned 01 April 2003.

826 The Panel assumes this to mean that that Glenn Vian ran errands for Kenneth Noye and Jonathan Rees.

- iii. He said that DI Allan Jones later told him that he and DC Davies were taken off the murder enquiry '*because they were getting too close*'.<sup>827</sup>

DC Crofts had previously told DI Rex Carpenter on 08 June 1989 as part of the Hampshire/Police Complaints Authority Investigation the reasons he thought he and DC Davies were taken off the investigation<sup>828</sup> (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). DI Carpenter had reported that the matters raised by DC Crofts had been dealt with.

- iv. Former DC Crofts provided information, which had been known to the Morgan One Investigation about former PC Derek Haslam, DC Alan Holmes and an alleged relationship between Kenneth Noye and former Commander Ray Adams.<sup>829</sup> He also reported that DC Holmes had a very close associate, who was known by a distinctive nickname.<sup>830</sup> DC Holmes was working, at the time of his death, with DS John Davidson, who was known by the same nickname.

313. The information then DC Michael Crofts provided regarding himself and DC Kinley Davies being removed from the Morgan One Investigation had been investigated, and there was no evidence that DC Crofts and DC Davies were taken off the murder investigation for any reason other than that cited in D/Supt Douglas Campbell's policy file: that they were no longer required (see Chapter 1, The Morgan One Investigation).

314. The information alleged by former DC Michael Crofts to have been provided to Daniel Morgan by Jonathan Rees about Kenneth Noye, that Glenn Vian was a runner for Kenneth Noye, was new evidence. Former DC Crofts should have been asked to provide a statement of exactly what he knew about what Jonathan Rees had allegedly told Daniel Morgan and when this had happened, as it may have related to the alleged police corruption. No such statement can be found.

### 12.3 Police Officer N21

315. Police Officer N21 had been a friend of DS Sidney Fillery and had worked on Catford Crime Squad with him at the time of Daniel Morgan's murder. Police Officer N21 also used to frequent public houses with DS Fillery, and together they would often meet Jonathan Rees.<sup>831</sup> He '*went on to resign or was shown as retired*' from the Metropolitan Police in 1989, and shortly afterwards worked for former DS Fillery and Jonathan Rees at Southern Investigations.<sup>832,833</sup>

827 Action A303, MPS059745001, p2, 01 April 2003.

828 Report R2A of DI Rex Carpenter, MPS027948001, 08 June 1989.

829 Action A303, MPS059745001, pp2-3, 01 April 2003.

830 Action A303, MPS059745001, p3, 01 April 2003.

831 Witness statement of Police Officer N21, MPS015663001, 20 November 1987. (An original copy of the witness statement has not been made available to the Panel).

832 Action A315, MPS059757001, p6, 25 April 2003.

833 Witness statement of former Police Officer N21, MPS077976001, p9, 02 February 2007.

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He had subsequently been convicted of aggravated burglary and assault. He was interviewed on 09 April 2003.<sup>834</sup> The summary of the interview of then former Police Officer N21 stated the following:

- i. He thought it strange that Jonathan Rees and Daniel Morgan had met in the Golden Lion public house on the night of the murder, as it was known as a '*Paddys [sic] pub*'.
- ii. He believed that Daniel Morgan was going to '*grass up a police officer about a coke deal*', though he could not be more precise.<sup>835</sup> Former Police Officer N21 also said that he thought Daniel Morgan had been linked to DC Alan Holmes and that there was a connection to the Brink's-Mat robbery<sup>836</sup>.
- iii. Former Police Officer N21 said that on the morning after the murder, DS Fillery '*was a [sic] white as a ghost*' and he believed that '*he was truly shocked by the murder*'.
- iv. He said that DS Fillery had been a Freemason, and that he had held more senior rank in the Freemasons than many of his superior officers.<sup>837</sup>
- v. He explained that one day he went into the office where the Catford Crime Squad Detective Inspector, Philip Williams, was speaking to DC Duncan Hanrahan and his partner, '*a dark-haired DC*'. Police Officer N21 wanted to put a message into the system relating to a drugs search they had conducted that day on a heroin dealer's address at a stated location where he '*had found an axe in a shed with elastoplast taped on the handle.*' He said that he had not heard any more about this message and did not believe it was followed up.<sup>838</sup>

There is no evidence that Police Officer N21 put such a message into the system.

316. The material available to the Panel contains two messages which were submitted to the Morgan One Investigation and which referred to the finding of an axe during a search for drugs. The first was submitted on 12 August 1987, when John Lee of the *Daily Express* newspaper telephoned the Morgan One Investigation and spoke to D/Supt Douglas Campbell. Among other things he said that Jonathan Rees had told him that '*he was very upset with the way Police are treating him as a suspect in relation to the Danny MORGAN murder*' and that '*Police are taking a blinkered view in not following up other leads*'. John Lee also told D/Supt Campbell that Jonathan Rees had '*mentioned a Drugs Deal in Catford where an address was searched and an axe was found*'.<sup>839</sup>

317. The second message was submitted the following day, 13 August 1987, by DC Kinley Davies (who had previously worked on the Morgan One Investigation). It said that a 4-foot tree-felling axe had been found in a shed during a search of a specific address at which he and DC Crofts assisted '*PD*' (Catford police officers). The message stated that this was '*[t]otally unconnected with your incident*'.<sup>840</sup>

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834 Action A315, MPS059757001, p5, 25 April 2003.

835 Action A315, MPS059757001, p5, 25 April 2003.

836 Action A315, MPS059757001, p5, 25 April 2003.

837 Action A315, MPS059757001, pp5-6, 25 April 2003.

838 Action A315, MPS059757001, pp5-6, 25 April 2003.

839 Message M428, MPS012488001, pp1-4, 12 August 1987.

840 Message M432, MPS012492001, 13 August 1987.



318. Although there is a distinct lack of clarity about this incident with the axe, there is a report of an axe being found and appropriate action having been taken. Police Officer N21 served in Catford at the time. The axe referred to in the message submitted by DC Davies did not resemble the axe used to murder Daniel Morgan and was stated by him to have no relevance to the Morgan One Investigation.

319. It was concluded that former Police Officer N21's information disclosed no further lines of enquiry. However, he later gave additional evidence to the Abelard Two Investigation (see Chapter 8, The Abelard Two Investigation).

## 12.4 Former PC Derek Haslam

320. Former PC Derek Haslam was interviewed on 15 April 2003.<sup>841</sup> In the summary of this interview, it was recorded that he had said the following:

- i. Daniel Morgan and DC Alan Holmes (who was working on the Brink's-Mat robbery and was able to access numerous indices and computers) had been very close, and DC Holmes would assist Daniel Morgan with enquiries on police computers, while in return Daniel Morgan would '*wine and dine*' DC Holmes paying the bill using the Southern Investigations bank account.<sup>842</sup>
- ii. DC Holmes and Commander Ray Adams (who, in 1987, was the head of the Criminal Intelligence Bureau at the Metropolitan Police and was under investigation for corruption (see Chapter 1, The Morgan One Investigation) were close associates, and as a result DC Holmes '*was privy to a lot of information*'.
- iii. An individual, while being interviewed in an unrelated matter for possession of drugs, had told PC Haslam about the alleged corrupt activities of Commander Adams. PC Haslam had taped this conversation and passed copies of the tapes to the Metropolitan Police Complaints Department, which was conducting an anti-corruption investigation into Commander Adams. DC Holmes had later contacted PC Haslam on behalf of Commander Adams and asked to listen to the tapes. When PC Haslam refused, DC Holmes warned him that Commander Adams was threatening to kill PC Haslam and his family.<sup>843</sup>

DC Holmes had been interviewed in relation to allegations that he had provided information to Commander Adams about the anti-corruption investigation on 19 July 1987 and on 23 July 1987. He was subsequently found dead at his home on 28 July 1987. He left a suicide note in which he referred to PC Haslam, saying he was a '*Serpico*'.<sup>844,845</sup> A coroner ruled that his death was by suicide (see Chapter 1, The Morgan One Investigation).

- iv. After DC Holmes's death, PC Haslam claimed DC Duncan Hanrahan took over as Commander Adams' '*bag man*'.<sup>846</sup> (A bag man was an unofficial role supporting a more senior officer.)

841 Intelligence report, MPS061961001, p4, 17 April 2003.

842 Intelligence report, MPS061961001, p4, 17 April 2003.

843 Intelligence report, MPS061961001, p4, 17 April 2003.

844 A reference to a film in which a fictitious police officer informed his superiors about police corruption.

845 Report of Commander Thelma Wagstaff regarding the death of DC Alan Holmes.

846 Intelligence report, MPS061961001, p5, 17 April 2003.

The evidence indicates that neither DC Alan Holmes nor DC Duncan Hanrahan acted as '*bag man*' to Commander Ray Adams.

- v. PC Haslam also said that a Detective Constable, an individual with whom DC Holmes had worked closely, may have been able to assist the investigation.<sup>847</sup> The Detective Constable was never identified.

Efforts were made to trace the Detective Constable who had been named by former PC Derek Haslam, but they were unsuccessful. It is not clear that a Detective Constable with that name existed.

- vi. In light of allegations being made about the circumstances of DC Alan Holmes' death, Commander Thelma Wagstaff was appointed on 04 September 1987 to conduct an investigation into the matter. The Panel has had full access to her files. There is no evidence that Commander Wagstaff was aware of any communication between Daniel Morgan and DC Holmes about a possible media story about corruption.

The Panel examined all the papers available in relation to Commander Wagstaff's investigation and found no reference to Daniel Morgan in any of the papers. There was nothing to indicate any connection between Daniel Morgan and DC Holmes, and nothing to indicate any connection between the tragic deaths of the two men. PC Haslam's statements made in the days after DC Holmes' death contained no reference to Daniel Morgan.

The Panel has read all the statements which were made by PC Derek Haslam and which are available to it, including those made to the Russell Inquiry<sup>848</sup> and to the investigation by Commander Thelma Wagstaff into DC Holmes' death. At no stage during the previous 16 years had PC Haslam made any mention of this matter. Given that this was new and relevant information, former PC Haslam should have been asked to make a statement about this matter in 2003.

However it is extremely difficult to understand why, if former PC Haslam had information that DC Holmes and Daniel Morgan were going to sell a specific story to the press about corruption involving Commander Adams, and that this had been discovered by Commander Adams before Daniel Morgan's death, PC Haslam did not tell Commander Peter Winship, who was responsible for the Russell Inquiry, or Commander Wagstaff, or D/Supt Douglas Campbell about this after Daniel Morgan was murdered in March 1987.

847 Intelligence report, MPS061961001, p5, 17 April 2003.

848 Operation Russell was an investigation led by Commander Peter Winship into allegations of corruption made against Commander Ray Adams.

- vii. Jonathan Rees had informed PC Haslam that *'they'* (believed to be Jonathan Rees and Daniel Morgan) had arranged to meet Glenn Vian and Garry Vian in the Golden Lion public house on the night of the murder, not Paul Goodridge, as Jonathan Rees had told the Morgan One Investigation, and that Glenn Vian and Garry Vian had agreed to lend Jonathan Rees £10,000 (which had been acquired *'from drugs'*) to lodge at court.<sup>849</sup> On 05 March 1987, the judge in the Belmont Car Auctions legal action against Southern Investigations (seeking to recover £18,280.62 plus interest and costs),<sup>850</sup> had directed that £10,000 was to be paid into court within 21 days.<sup>851</sup>
- viii. Former DS Sidney Fillery had told PC Haslam that, when the police had recently searched his premises, his secretary had hidden, in her underwear, floppy discs relating to Belmont Car Auctions.<sup>852</sup>

PC Haslam later made the same allegation, but suggested Margaret Harrison had told him this.<sup>853</sup>

## 12.5 Former DS Malcolm Davidson

321. Former DS Malcolm Davidson was interviewed on 15 May 2003.<sup>854</sup> A summary of this interview recorded that former DS Davidson said the following:

- i. He had not seen a watch on Daniel Morgan's wrist on the night of the murder.<sup>855</sup>
- ii. He had thought that the Belmont Car Auctions robbery was a *'put up job'* and that DC Duncan Hanrahan had been a co-conspirator with Jonathan Rees during the robbery on 18 March 1986. DS Davidson suspected that Daniel Morgan may have found out about former DC Hanrahan's involvement and had threatened to reveal this unless Jonathan Rees and former DC Hanrahan settled the civil action against Southern Investigations.<sup>856</sup>

This allegation is not corroborated by any other evidence and did not assist the investigation. DC Hanrahan had been the on-call Criminal Investigation Department (CID) officer on the night of the robbery in 1986, and in his statement, he had reported that he had met Jonathan Rees for the first occasion on the night of the robbery and had reported his view that Jonathan Rees was involved in some way in the robbery.<sup>857</sup>

## 12.6 DC Kinley Davies

322. DC Kinley Davies was interviewed on 27 May 2003.<sup>858</sup> DC Davies said that he and DC Michael Crofts had been employed on the Morgan One Investigation. DC Davies was reported to have said that they had been *'employed on Operation King looking at people within the investigation'*.<sup>859</sup>

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849 Intelligence report, MPS061961001, p4, 17 April 2003.

850 Writ issued against Southern Investigations, MPS010087001, 04 April 1986.

851 Order in the civil action between Belmont Car Auctions and Southern Investigations, MPS021731001, 05 March 1987.

852 Intelligence report, MPS061961001, p4, 17 April 2003.

853 Witness statement of former PC Derek Haslam, MPS001491001, p7, 04 May 2007.

854 Action A188, MPS059613001, p1, 20 May 2003

855 Action A188, MPS059613001, 20 May 2003.

856 Action A188, MPS059613001, 20 May 2003.

857 Witness statement of DC Duncan Hanrahan, MPS010354001, pp2-3, 05 June 1987.

858 Action A413, MPS059856001, p1, 27 May 2003.

859 Action A413, MPS059856001, p1, 27 May 2003.

323. Operation King had been established following the receipt of information by PC Derek Haslam from a known offender. The Operation was based in Farnborough<sup>860,861</sup> and was also part of a wider investigation into Commander Ray Adams by Commander Peter Winship. The information received by PC Haslam concerned alleged corrupt activities of Commander Adams, and his connections with Kenneth Noye and a London-based organised crime group. DC Davies said that he and DC Michael Crofts had reported directly to D/Supt Douglas Campbell and DI Allan Jones on these matters.<sup>862</sup>

324. There is no indication that Operation King ever passed any information on to D/Supt Douglas Campbell.

325. DC Kinley Davies also said that, on returning to the office one day,<sup>863</sup> he found former DS John Ross going through the Morgan One Investigation files. The evidence available indicated that former DS Ross had been in the Morgan One Investigation Room the day before the first arrests for the murder of Daniel Morgan which occurred on 03 April 1987. Questions later arose as to whether the arrest operations had been compromised and whether those arrested might have known that they were to be arrested before police arrived on 03 April 1987 (see Chapter 1, The Morgan One Investigation).

326. There is no evidence that DC Kinley Davies had told anyone prior to 2002 that he had found former DS John Ross going through the files in the Morgan One Investigation room in 1987. This was a very serious breach of security and should have been reported immediately.

## 12.7 Former DI Allan Jones

327. Former DI Allan Jones was interviewed on 11 June 2003.<sup>864</sup> He referred to a number of issues, among which were the following:

- i. A number of detectives on the original investigation team were poor investigators; witness accounts were taken at face value and they neglected to probe and confront obvious inconsistencies.<sup>865</sup>
- ii. He did not instigate the removal of DC Kinley Davies and DC Michael Crofts from the Morgan One Investigation team '*as he regarded these officers as being about the only two effective detectives on the outside inquiry team*'.<sup>866</sup>
- iii. '*The Exhibits Officer Clive BLAKE failed to deal with exhibits correctly*' and '*had also taken possession of REES' black address book from the offices at Southern Investigations*' DC Blake later claimed '*that [sic] DI JONES had asked him to get rid of it*'.<sup>867</sup>

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860 'Note of conversation with Kinley DAVIES 10.04.2014', MPS108149001, pp2 and 5, 11 April 2014.

861 Action A413, MPS059856001, p1, 27 May 2003.

862 Action A413, MPS059856001, p1, 27 May 2003.

863 Action A413, MPS059856001, p1, 27 May 2003.

864 Action A299, MPS059739001, 13 June 2003.

865 Action A299, MPS059739001, 13 June 2003.

866 Action A299, MPS059739001, 13 June 2003.

867 Action A299, MPS059739001, 13 June 2003.

- iv. A fibre, which resembled the colour of a scarf seized from Jonathan Rees during the investigation, was found within the tapings on the axe.<sup>868</sup>

There is no evidence in the material available that a scarf was seized from Jonathan Rees during the Morgan One Investigation. No seizure of a scarf was recorded, there is no record of such an exhibit and no record of any scarf being sent for comparison by the forensic scientists with the fibre found on the tapings of the axe. The Panel has therefore concluded that no scarf was seized from Jonathan Rees.

- v. *'[I]nformation from the investigation was regularly leaked'*, and former DS Sidney Fillery *'only left the Inquiry after DI JONES discovered that FILLERY was making telephone calls to REES keeping him apprised of developments'*.<sup>869</sup>
- vi. Prior to a meeting Kevin Lennon had with Jonathan Rees, DI Jones had deployed a covert tape-recording device on Kevin Lennon, which had recorded a conversation in which Kevin Lennon said, *'[d]o you remember the conversation we had about a year ago when you asked me to get someone to kill Danny?'* and Jonathan Rees replied, *'[y]eah, vaguely, vaguely'*.<sup>870</sup>

328. The Panel has seen the transcripts of two occasions on which Kevin Lennon and Jonathan Rees had a conversation. DI Allan Jones's recollection does not accord with the recording made at the time. This line of enquiry was properly dealt with during the Morgan One Investigation.

## 12.8 Former D/Supt Douglas Campbell

329. Former D/Supt Douglas Campbell was interviewed on 20 June 2003.<sup>871</sup> The summary of the interview states the following:

- i. Former D/Supt Campbell had little to add to what the investigation team already knew. He is recorded as describing the Morgan One Investigation team as one that *'was not as professional or efficient as he would have liked'* and that he was reliant on the staff he had been given.<sup>872</sup>
- ii. A week into the investigation D/Supt Campbell had realised the closeness between Jonathan Rees and DS Sidney Fillery, and that DS Fillery had been strongly suspected of contacting Jonathan Rees and discussing the progress of the enquiry.<sup>873</sup>

868 Action A299, MPS059739001, 13 June 2003.

869 Action A299, MPS059739001, 13 June 2003.

870 Action A299, MPS059739001, 13 June 2003.

871 Action A298, MPS059738001, pp1-3, 30 June 2003.

872 Action A298, MPS059738001, pp1-3, 30 June 2003.

873 Action A298, MPS059738001, pp1-3, 30 June 2003.



- iii. Former D/Supt Campbell had regarded DC Michael Crofts and DC Kinley Davies as '*conspiracy theorists*'. He believed that they introduced '*new ideas*' into the investigation in order to prolong the work and thus increase the opportunities for overtime.<sup>874</sup>

Former DC Kinley Davies had said in his interview in May 2003 that he and DC Michael Crofts '*had been employed on Operation King looking at people within the investigation*'. There is no evidence that either D/Supt Douglas Campbell or his deputy, DI Allan Jones, were asked about Operation King. They should have been asked whether any information had been received, and if so, what that information was and what actions had been taken as a result of the receipt of the information.

330. D/Supt Douglas Campbell's evidence did not generate any lines for further enquiry.

331. The Panel has closely examined the records of contacts made and interviews conducted by the Abelard One/Morgan Two Investigation team with officers involved in the Morgan One Investigation. No new lines of enquiry emerged. Police officers or former police officers could either remember little of their part in the Morgan One Investigation or they largely recapitulated what they had earlier claimed to have done, seen or thought.

332. A number of officers from the Morgan One Investigation should also have been considered for interview, including DI Christopher Horne, DS Graham Frost and the two indexers.<sup>875</sup> Dr Michael Heath, the pathologist, and the forensic photographer should also have been interviewed.

No officers from the Hampshire/Police Complaints Authority Investigation were interviewed, although the reports which some officers had produced were of significance and interviews might have led to further investigative opportunities which had not been pursued by DCS Alan Wheeler, the Senior Investigating Officer of the Hampshire/Police Complaints Authority Investigation.

333. In the light of the information provided by former PC Derek Haslam and former DC Michael Crofts, in relation to the alleged corruption story, DCS David Cook should have sought from the Gold Group an extension to his Terms of Reference.

<sup>874</sup> Action A298, MPS059738001, pp1-3, 30 June 2003.

<sup>875</sup> An 'Indexer' is someone who indexes information to create a searchable database for a police investigation.

## 13 Other investigative actions

### 13.1 Southern Investigations' finances

334. The 2000 Murder Review made 13 recommendations relating to Daniel Morgan's business activities at Southern Investigations.<sup>876</sup> One of these related to an allegation reported to the police by John Peacock in December 1987.<sup>877</sup> He had said that Jonathan Rees had told him that Daniel Morgan had embezzled £12,000 from Southern Investigations.<sup>878</sup> John Peacock had made five statements before December 1987 but did not mention this alleged embezzlement in any of them.<sup>879,880,881,882,883</sup>

335. John Peacock's allegation led to recommendation 31 of the 2000 Murder Review, that a financial profile of Southern Investigations be drawn up '*to establish whether MORGAN had embezzled £12,000 from Southern Investigations*'.<sup>884</sup> It was thought by the 2000 Murder Review that this could have been a motive for Daniel Morgan's murder.<sup>885</sup>

336. Police had seized a number of financial documents during the Morgan One Investigation, including some bank statements for the business and personal accounts of both Daniel Morgan and Jonathan Rees. Files held by William Newton, their accountant, were provided to the Abelard One/Morgan Two Investigation.<sup>886</sup>

337. The Abelard One/Morgan Two Investigation commissioned a forensic accountant to review all available financial records.<sup>887,888,889,890</sup> Many financial records were unavailable, including some bank statements, bank mandates, information about who was authorised to sign cheques for Southern Investigations, invoices and other materials.<sup>891,892</sup> The books of the partnership had not been written up for six months prior to Daniel Morgan's murder, due to the imprisonment of the previous bookkeeper, Kevin Lennon.<sup>893,894</sup>

338. No partnership agreement had been found. Information as to the arrangements underpinning the partnership, and the way in which it was conducted, was received from Jonathan Rees and others. Iris Morgan, Daniel Morgan's widow, disputed a lot of the information provided by Jonathan Rees.

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876 2000 Murder Review Report, MPS020525001, pp83-92, 06 October 2000.

877 2000 Murder Review Report, MPS020525001, p45, paras 6.11.27-6.11.29, 06 October 2000.

878 Message M643, MPS012703001, p2, 16 December 1987.

879 Witness statement of John Peacock, MPS010533001, 07 April 1987.

880 Witness statement of John Peacock, MPS010537001, pp1-2, 21 July 1987.

881 Witness statement of John Peacock, MPS010540001, 24 September 1987.

882 Witness statement of John Peacock, MPS010544001, p1, 12 October 1987.

883 Witness statement of John Peacock, MPS010545001, 03 November 1987.

884 2000 Murder Review Report, MPS020525001, p45, para 6.11.29, 06 October 2000.

885 2000 Murder Review Report, MPS020525001, p45, para 6.11.27, 06 October 2000.

886 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p24, 07 March 2003.

887 The forensic accountant produced three reports which covered D J Morgan and W J Rees trading as Southern Investigation. These reports were included in the financial profile of Southern Investigations produced by the Abelard One/Morgan Two Investigation.

888 '*Review of Cessation Accounts for the Period 01/03/86 to 10/03/87*', MPS060066001, pp28-35, 27 September 2002.

889 '*Review of Correspondence files held by Lean, Newton & Cary*', MPS060066001, pp36-49, 28 October 2002.

890 '*Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)*', MPS060066001, pp50-52, 29 October 2002.

891 '*Review of Cessation Accounts for the Period 01/03/86 to 10/03/87*', MPS060066001, p29, 27 September 2002.

892 '*Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)*', MPS060066001, p51, 29 October 2002.

893 '*Review of Correspondence files held by Lean, Newton & Cary*', MPS060066001, p36, 28 October 2002.

894 '*Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)*', MPS060066001, p51, 29 October 2002.

339. In October 2002, the police forensic accountant produced three reports. Two of these reports reviewed the company's accounts for the period 01 March 1983 to 10 March 1987, and the company's correspondence files. The third report drew conclusions based on the company's accounts and correspondence files. However, the forensic accountant also stated that further information was required and listed 11 questions. Some of the 11 questions were answered, but others remained unanswered.<sup>895</sup> The reports from the forensic accountant were subsequently appended to an undated and unsigned financial profile, which was created by the Abelard One/Morgan Two Investigation.<sup>896</sup>

340. Among the findings in this report were the following:

- i. A bank account was created for Southern Investigations on 07 March 1983. The first payments from that account into the bank accounts of Daniel Morgan and Jonathan Rees were on 14 June 1983 and amounted to £500 each. This was said to be payment for work done for the partnership before that date.<sup>897,898</sup>
- ii. A goodwill payment of £3,500 from Jonathan Rees to Daniel Morgan was said to have been agreed, but this is evidenced only in an affidavit prepared by Kevin Lennon on 30 September 1987.<sup>899</sup> Iris Morgan disputed this valuation.<sup>900</sup>
- iii. On 30 June 1983 the sum of £3,500 was paid from the Southern Investigations bank account into Daniel Morgan's personal account. It is not known whether this was payment for the goodwill of the business.<sup>901</sup>
- iv. On 30 September 1987, Kevin Lennon stated that the £3,500 payment for goodwill was to be paid by standing order at the rate of £150 a month.<sup>902</sup>
- v. A standing order of £100 a month, drawn on the Southern Investigations bank account and payable to DJM Investigations Ltd, one of Daniel Morgan's accounts, was created on 01 July 1983. It rose to £150 per month on 01 April 1984. At the time of Daniel Morgan's murder in March 1987, these standing order payments from Southern Investigations to DJM Investigations totalled £6,350.<sup>903</sup> No explanation other than that given by Jonathan Rees and Kevin Lennon has been provided in relation to this standing order.
- vi. A standing order was created in March 1985 through which £40 a month was paid from the Southern Investigations account to Jonathan Rees's account at Legal and General (a financial services company)<sup>904,905</sup> until 08 August 1988.<sup>906</sup>

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895 'Additional Information', MPS060066001, p53, undated.

896 'Financial profile Southern Investigations', MPS060066001, pp4-26, undated.

897 'Financial profile Southern Investigations', MPS060066001, pp7 and 9, undated.

898 'Review of Cessation Accounts for the Period 01/03/86 to 10/03/87', MPS060066001, p31, 27 September 2002.

899 Affidavit of Kevin Lennon, MPS060066001, p55, 30 September 1987.

900 'Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)', MPS060066001, p50, 29 October 2002.

901 'Financial profile Southern Investigations', MPS060066001, p20, undated.

902 Affidavit of Kevin Lennon, MPS060066001, p55, 30 September 1987.

903 'Financial profile Southern Investigations', MPS060066001, p6, undated.

904 'Review of Cessation Accounts for the Period 01/03/86 to 10/03/87', MPS060066001, p31, 27 September 2002.

905 Midland Bank statements for Southern Investigations, MPS008852001, p73, 28 March 1985.

906 Letter from Legal and General to Jonathan Rees, MPS027082001, 08 August 1988.

The only explanations provided for these payments from the Southern Investigations account have come from Jonathan Rees and Kevin Lennon.

All these payments were drawn on the Southern Investigations bank account operated jointly by Jonathan Rees and Daniel Morgan. The payments were taken from the profits and therefore half of each payment was provided by each partner.

It was erroneously assumed by the forensic accountant and others that the payments to Daniel Morgan had been made solely by Jonathan Rees. This was incorrect.

- vii. Daniel Morgan and Jonathan Rees were paid £650 each a month from 01 July 1983. This rose to £800 a month from 01 August 1986.<sup>907</sup>
- viii. The partnership bookkeeping had been of a low standard. The accounts which had been prepared by Kevin Lennon were inaccurate and were not certified. It was evident that not all transactions were recorded in the company accounts. Cash receipts were not allocated to invoices. Client monies were not properly accounted for. Personal expenses had been included as business expenses in the partnership accounts.<sup>908</sup>
- ix. Southern Investigations' turnover had increased year-on-year from £47,780 in 1984 to £153,814 in 1987. Profit, however, had not been increasing. Increased costs eliminated any increase in profits.<sup>909</sup>
- x. Southern Investigations was in serious financial difficulties at the time of Daniel Morgan's death.<sup>910</sup> The Southern Investigations bank account was overdrawn in the sum of £7,661.85,<sup>911</sup> and the bank was pressing for their accounts in order to review the overdraft facility.<sup>912</sup> Cash withdrawals had spiralled out of control during the accounting period 01/03/1986 to 10/03/1987.

These cash drawings amounted to in excess of £20,600. Both partners had agreed that they had drawn cash from the business. However, it is not known what amount each had withdrawn, nor can it be established whether anyone else was able to withdraw cash.

- xi. VAT returns were late and VAT in the sum of £8,200.98 was overdue.<sup>913</sup>

907 'Review of Cessation Accounts for the Period 01/03/86 to 10/03/87', MPS060066001, p31, 27 September 2002.

908 'Review of Cessation Accounts for the Period 01/03/86 to 10/03/87', MPS060066001, p28, 27 September 2002.

909 'Financial profile Southern Investigations', MPS060066001, p20, undated.

910 'Financial profile Southern Investigations', MPS060066001, p20, undated.

911 Midland Bank statements for Southern Investigations, MPS008852001, p9, 11 March 1987. (The bank statements actually show that the account was £7,665.81 overdrawn on this date).

912 'Financial profile Southern Investigations', MPS060066001, p21, undated.

913 'Review of Cessation Accounts for the Period 01/03/86 to 10/03/87', MPS060066001, p31, 27 September 2002.

- xii. In July 1986, Daniel Morgan had paid £2,116.60 to the Inland Revenue in respect of the tax years 1981/1982 and 1982/1983, before the partnership existed. Following enforcement proceedings taken by the Inland Revenue he had, on 19 February 1987, paid further tax of £1,965.25.<sup>914</sup>
- xiii. Partnership tax was four years in arrears and unfunded. The partners' tax liabilities had been estimated by William Newton to be approximately £24,400 plus possible interest and penalties. He had notified Daniel Morgan and Jonathan Rees on 25 February 1987.<sup>915,916</sup>
- xiv. The forensic accountant calculated that in addition to this, the partnership was insolvent, with net liabilities of £14,825 as at March 1987, '*due to the partners drawing in excess of the profit earned by the Partnership during the final period of trading*'.<sup>917</sup>
- xv. '*The Partnership faced a court action from a client, Belmont Auctions, for loss of funds.*'<sup>918</sup>

341. In early 2003, the Abelard One/Morgan Two Investigation used the forensic accountant's report to provide a profile of the financial situation at Southern Investigations.

342. The financial profile report stated that there were 12 bank accounts relating to either Jonathan Rees or Daniel Morgan, and that they believed Daniel Morgan and Jonathan Rees had at least another bank account each, for which the police had no records.<sup>919</sup> The report reiterated the findings of the forensic accountant.

343. It also stated that in November 1986 it had been decided to split the bailiff side of the business from the process and investigative side, under the name Morgan, Rees & Co, and that Daniel Morgan would work with his stepfather, Anthony Pearce, and Malcolm Webb.<sup>920</sup> Iris Morgan had explained to police that:

*'[...] by setting up Morgan Rees & Co Daniel was carefully making sure the effort he was putting into his work was being rewarded instead of going to John [sic] Rees who was considered by Daniel not to be pulling his weight.'*<sup>921</sup>

344. The report noted that:

*'[t]he financial implications of this restructuring would have been quite damaging to Rees if he was to be cut out of the profits of the bailiffing side. However, no new bank accounts appear to have been opened to divide the proceeds of each side of the business and the accounts that have been drawn up do not differentiate between the two sides.'*<sup>922</sup>

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914 Letter from Lean, Newton, and Cary to the Inland Revenue Enforcement Office, MPS060066001, p58, 19 February 1987.

915 '*Financial profile Southern Investigations*', MPS060066001, p21, undated.

916 '*Review of Correspondence files held by Lean, Newton & Cary*', MPS060066001, p36, 28 October 2002.

917 '*Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)*', MPS060066001, p51, 29 October 2002.

918 '*Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)*', MPS060066001, p50, 29 October 2002.

919 '*Financial profile Southern Investigations*', MPS060066001, p21, undated.

920 Malcolm Webb was an employee of Southern Investigations.

921 '*Financial profile Southern Investigations*', MPS060066001, p16, undated.

922 '*Financial profile Southern Investigations*', MPS060066001, p16, undated.



345. It was not possible to audit fully the financial position of Southern Investigations. There were too many missing documents and *'the state of the accounts were so poor'*.<sup>923</sup>

346. In December 1987, John Peacock<sup>924</sup> had told police that Jonathan Rees had told him that Daniel Morgan had embezzled £12,000 from Southern Investigations.<sup>925</sup> Extensive forensic investigation did not reveal any such embezzlement. The financial profile paints a picture of a chaotic situation, in which both partners may have had suspicions that the other was drawing more than he should have done, but there is no evidence to support or refute this in the material available.

347. Some of the liabilities of Southern Investigations and of Daniel Morgan and Jonathan Rees on 10 March 1987 were indicated by the fact that:

- i. the Southern Investigations bank account was in debit to the sum of £7,212.28 on 10 March 1987;<sup>926</sup>
- ii. VAT in the sum of £8,200.98 was overdue;<sup>927</sup>
- iii. unpaid tax had been calculated at £24,400 plus possible interest and penalties;<sup>928</sup>
- iv. partnership net trading liabilities amounted to £14,825 as at March 1987;<sup>929</sup> and
- v. the Belmont Car Auctions legal action was for £18,280.62 plus interest and costs.<sup>930</sup> The judge had directed on 05 March 1987 that £10,000 was to be paid into court within 21 days.<sup>931</sup>

923 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp25-26, 7 March 2003.

924 2000 Murder Review Report, MPS020525001, p45, paras 6.11.27-6.11.29, 06 October 2000. Message M643, MPS012703001, p2, 16 December 1987.

925 Message M643, MPS012703001, p2, 16 December 1987.

926 *'Bank account schedule – Midland, Barclays & TSB'*, MPS008857001, p3, undated.

927 *'Review of Cessation Accounts for the Period 01/03/86 to 10/03/87'*, MPS060066001, p31, 27 September 2002.

928 *'Review of Correspondence files held by Lean, Newton & Cary'*, MPS060066001, p36, 28 October 2002.

929 *'Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)'*, MPS060066001, p51, 29 October 2002.

930 Writ issued against Southern Investigations, MPS010087001, 04 April 1986.

931 High Court Order in the civil action between Belmont Car Auctions and Southern Investigations, MPS021731001, 05 March 1987.

## 13.2 Miscellaneous other issues investigated pursuant to the 2000 Murder Review

348. The Abelard One/Morgan Two Investigation was committed to examining all the recommendations made by the 2000 Murder Review.<sup>932</sup> Recommendations investigated and not otherwise dealt with in this chapter during the Abelard One/Morgan Two Investigation included the following:

- i. Three lines of enquiry about other crimes involving the use of an axe which had not been completed satisfactorily by the Morgan One Investigation.<sup>933,934,935</sup> None of these enquiries generated evidence linking the individuals to the murder of Daniel Morgan.<sup>936,937,938,939,940</sup>
- ii. Two recommendations concerned the possibility that Daniel Morgan had been murdered due to mistaken identity.<sup>941,942</sup> One recommendation was followed up properly but proved unconnected.<sup>943</sup> Although the outcome to the other recommendation concluded that there did not appear to be any evidence that the murder of Daniel Morgan was a case of mistaken identity,<sup>944</sup> this recommendation was not comprehensively followed up.
- iii. One recommendation concerned photographs showing a man with a resemblance to Daniel Morgan found at Waterloo Station.<sup>945,946</sup> However this matter had been properly dealt with by the Morgan One Investigation.
- iv. Four recommendations related to telephone calls received or telephone numbers recorded by the Morgan One Investigation.<sup>947,948,949,950</sup> All were followed up and could either not be traced or were found to involve typing or recording errors.<sup>951,952,953,954,955</sup> No useful information was found.

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932 Minutes of meeting, MPS040543001, p1, 06 June 2002.

933 2000 Murder Review Report, Recommendation 50, MPS020525001, pp53-54, 06 October 2000.

934 2000 Murder Review Report, Recommendation 59, MPS020525001, p58, 06 October 2000.

935 2000 Murder Review Report, Recommendation 60, MPS020525001, pp58-59, 06 October 2000.

936 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, pp137-139, undated.

937 Action A76, MPS059472001, 05 December 2002.

938 Message M122, MPS059982001, p1, 05 December 2002.

939 Action A77, MPS059474001, 06 February 2003.

940 Action A65, MPS059459001, p2, 07 July 2003.

941 2000 Murder Review Report, Recommendation 25, MPS020525001, p42, 06 October 2000.

942 2000 Murder Review Report, Recommendation 38, MPS020525001, p48, 06 October 2000.

943 Action A54, MPS059444001, 04 August 2002.

944 Action A19, MPS059388001, p1, 11 September 2002.

945 2000 Murder Review Report, Recommendation 37, MPS020525001, p47, 6 October 2000.

946 Action A53, MPS059443001, p1, 04 September 2002.

947 2000 Murder Review Report, Recommendation 26, MPS020525001, p42, 06 October 2000.

948 2000 Murder Review Report, Recommendation 28, MPS020525001, p43, 6 October 2000.

949 2000 Murder Review Report, Recommendation 29, MPS020525001, p44, 06 October 2000.

950 2000 Murder Review Report, Recommendation 30, MPS020525001, p44, 06 October 2000.

951 Action A20, MPS059389001, p1, 01 August 2002.

952 Action A22, MPS059393001, p1, 18 July 2002.

953 Action A23, MPS059395001, p1, 18 July 2002.

954 Action A24, MPS059398001, pp1-2, 11 November 2002.

955 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p133, undated.

- v. A recommendation was made to carry out an analysis of the movements and contacts of James Cook (the alleged driver of the getaway car) at the time of Daniel Morgan's murder.<sup>956</sup> However, James Cook was stated to have refused to provide any information to the investigation.<sup>957,958</sup> It was established that James Cook was a close associate of Glenn Vian and Jonathan Rees.<sup>959</sup>
- vi. A recommendation was made to assess whether to approach an individual associated with Garry Vian who was a known criminal.<sup>960</sup> However, in light of a risk assessment, a decision was made not to approach him.<sup>961</sup>

The decision not to approach the named individual was justified given the content of the risk assessment.

- vii. Thirty-six recommendations were also made in respect of approaching other named individuals.<sup>962</sup> These were followed up, but nothing emerged to assist the investigation.
- viii. Nine recommendations related to aspects of Daniel Morgan's work of recovering debts, property and even children in family disputes, some of which had allegedly led to threats being made against him.<sup>963,964,965,966,967,968,969,970,971</sup> All the issues were investigated. Some of the persons could not be traced.<sup>972</sup> No evidence emerged suggesting a plausible explanation for Daniel Morgan's murder.
- ix. Three recommendations related to anonymous tip-offs concerning responsibility for Daniel Morgan's murder.<sup>973,974,975</sup> All three had previously been investigated<sup>976,977,978</sup> during the Morgan One and Hampshire/Police Complaints Authority investigations.

956 2000 Murder Review Report, Recommendation 18, MPS020525001, p38, 06 October 2000.

957 Action A47, MPS059431001, 27 January 2003.

958 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p131, undated.

959 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p131, undated.

960 2000 Murder Review Report, Recommendation 63, MPS020525001, p59, 06 October 2000.

961 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p139, undated.

962 2000 Murder Review Report, MPS020525001, pp83-90, 06 October 2000.

963 2000 Murder Review Report, Recommendation 22, MPS020525001, p41, 06 October 2000.

964 2000 Murder Review Report, Recommendation 45, MPS020525001, pp51-52, 06 October 2000.

965 2000 Murder Review Report, Recommendation 47, MPS020525001, pp52-53, 06 October 2000.

966 2000 Murder Review Report, Recommendation 48, MPS020525001, p53, 06 October 2000.

967 2000 Murder Review Report, Recommendation 49, MPS020525001, p53, 06 October 2000.

968 2000 Murder Review Report, Recommendation 52, MPS020525001, p55, 06 October 2000.

969 2000 Murder Review Report, Recommendation 53, MPS020525001, p55, 06 October 2000.

970 2000 Murder Review Report, Recommendation 56, MPS020525001, p57, 06 October 2000.

971 2000 Murder Review Report, Recommendation 61, MPS020525001, p59, 06 October 2000.

972 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p132, pp136-139, undated.

973 2000 Murder Review Report, Recommendation 43, MPS020525001, p50, 06 October 2000.

974 2000 Murder Review Report, Recommendation 54, MPS020525001, p55, 06 October 2000.

975 2000 Murder Review Report, Recommendation 56, MPS020525001, p57, 06 October 2000.

976 Action A550, MPS032477001, 07 July 1989.

977 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p138, undated.

978 Extensive inquiries were carried out by the Morgan One Investigation which culminated in the interview of George Osbourne, MPS010900001, 01 February 1988.

- x. A recommendation that '*consideration should be given to using the services of the National Crime Faculty for intelligence purposes in this case*' to see whether it would be possible to create '*a psychological profile of the killer from examination of the crime scene photographs*'.<sup>979</sup>

Attempts were made to secure a psychological profile of the murderer.

On 22 October 2001, a Detective Constable recorded that he had spoken to the National Crime Faculty and had been told that as motives had been identified and suspects had already been prosecuted, the National Crime Faculty was unable to assist. The Detective Constable was advised to refer the matter to a pathologist.<sup>980</sup>

Nothing further was done. In fact, no suspects had been prosecuted by October 2001.

The Panel attempted to find the relevant policy of the National Crime Faculty and was unable to identify any documentation. Offender profiling, both psychological and general, was an investigative technique which might have yielded valuable results to the investigation.

- xi. A recommendation was made that Peter Wilkins (a former Detective Constable who had worked with Southern Investigations) be interviewed in relation to information he had previously provided. Peter Newby had told him of Jonathan Rees's concern about '*indiscreet comments*' he had made about his relationships with police officers and which he feared had been recorded when he met a police officer who was '*taped up*' shortly before 03 December 1987<sup>981,982</sup> (see Chapter 1, The Morgan One Investigation). Former DC Wilkins was interviewed. He '*denied saying that [Peter] NEWBY had told him of REES's concerns about being covertly tape recorded*'.<sup>983</sup>
- xii. During the Morgan One Investigation it had been established that there was a record in a bank statement referring to '*W.J.REES*', trading as Southern Security Services at an address in West Croydon.<sup>984,985,986</sup> '*Southern Security Services*' was the name under which Jonathan Rees traded prior to his partnership with Daniel Morgan. A recommendation was made that it be fully researched.<sup>987</sup>

Enquiries undertaken by the Abelard One/Morgan Two Investigation revealed that the property belonged to Croydon Council, whose records showed that no-one by the name of '*REES*' had ever occupied the property.<sup>988</sup> No further lines of enquiry were identified in relation to this matter.

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979 2000 Murder Review Report, Recommendation 77, MPS020525001, p74, 06 October 2000.

980 Action A27, MPS040347001, 05 November 2001.

981 2000 Murder Review Report, Recommendation 32, MPS020525001, p45, 06 October 2000.

982 Message M651, MPS012711001, 14 December 1987.

983 Action A28, MPS059404001, p2, 08 January 2003.

984 Action A166, MPS013229001, 16 March 1987.

985 '*W J REES ESQ*' bank statement, MPS062082001, 13 December 1982.

986 2000 Murder Review Report, MPS020525001, p50, 06 October 2000.

987 2000 Murder Review Report, Recommendation 40, MPS020525001, p50, 06 October 2000.

988 Action A56, MPS059446001, 23 August 2002.

- xiii. Several 2000 Murder Review Report recommendations identified possible leads which were required to be followed up as they were broadly linked to the murder scene.<sup>989</sup> This included the observation by police officers first on the scene, of a Rolls-Royce in the vicinity.<sup>990,991,992</sup> This matter was followed up and no further lines of enquiry emerged.
- xiv. A recommendation to establish the outcome of the court proceedings between Belmont Car Auctions and Southern Investigations was followed up.<sup>993,994</sup> The out-of-court settlement in respect of the Belmont Car Auctions civil action was said by a former Director of Belmont Car Auctions to be very close to the figure of £18,260.82 sought.<sup>995</sup>

### 13.2.1 Forensic issues

349. The 2000 Murder Review Report had analysed the forensic element of the investigation of Daniel Morgan's death and reported that the murder weapon and some items of Daniel Morgan's clothing had been found at Eltham Police Station and had previously been stored in another location. There was no documentary continuity to these exhibits, which meant that it would have been extremely difficult to present any new evidence which might have emerged from them in any subsequent prosecution.

350. Former Commander Andre Baker told the Panel that he did recall seeing an axe in an exhibit bag at Eltham Police Station. It was put to him during an interview with the Panel that the axe was stored in an en-suite toilet at Eltham Police Station. Former Commander Baker was unable to recall if this was the case. However, he did recall the axe being taken away by an officer, who, he was fairly sure, was working on the 2000 Murder Review.<sup>996</sup> Former Commander Baker followed up this conversation with an email message to a member of the Panel on the evening of 07 March 2018, the day he was interviewed. He said in the email:

*'I have checked my diaries for 1999 and up to April 2000. I cannot see an entry of finding the axe in the en-suite at Eltham. However, I do recall that there were a lot of items "stored" in that room – papers etc. As well as some of my predecessors [sic] items. I never went through them. I clearly recall a male officer coming in one day and said he was looking for an item or items from an enquiry. I am fairly sure he was on the review team. I do recall the axe that was in an exhibit bag and asking why was it there. I cannot recall what was said. He took the item away and I recall him making an entry in a book he had with him. I recall that this prompted a clearing of the papers and items from the en-suite. I cannot recall what happened to it all. I think I asked [...] to deal with the items.'*<sup>997</sup>

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989 2000 Murder Review Report, MPS020525001, pp83-91, 06 October 2000.

990 2000 Murder Review Report, Recommendation 23, MPS020525001, p41, 06 October 2000.

991 2000 Murder Review Report, Recommendation 24, MPS020525001, p41, 06 October 2000.

992 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p133, undated.

993 2000 Murder Review Report, Recommendation 57, MPS020525001, p58, 06 October 2000.

994 Response to the recommendations outlined in the 2000 Murder Review Report, MPS094325001, p138, undated.

995 Action A74, MPS059470001, 01 August 2002.

996 Panel interview with former Commander Andre Baker, p10, 07 March 2018.

997 Email to the Panel from former Commander Andre Baker, 07 March 2018.



351. The fact that the axe was not properly stored as an exhibit meant any evidence emerging from any later forensic examination of the axe for the purpose of a trial would have been open to challenge on the grounds that the chain of custody of the axe could not be established. This was a very serious failing.

In 2020, the Metropolitan Police told the Panel that a review was conducted by Operational Forensic Manager, Jason Weetman, in August 2009, in which he stated that '[a]lthough the continuity of the axe has possibly been lost from the seizure of the item at the Post Mortem examination, the integrity of the item is still believed to be maintained as it had been located in sealed packaging'. However, it remains a very distinct probability that the integrity of the axe would be challenged in any future proceedings.

352. Various items had been submitted by the 2000 Murder Review for forensic testing, including the murder weapon and tapings from it, items of Daniel Morgan's clothing,<sup>998</sup> his shoes,<sup>999</sup> and three blood-stained banknotes, which were part of the larger sum of money which had been found on Daniel Morgan's body.<sup>1000</sup>

353. Following the completion of the 2000 Murder Review, on 09 March 2001, Philip Toates, who worked for the Forensic Science Service and had been the forensic scientist working on the Morgan One Investigation (see Chapter 1, The Morgan One Investigation), wrote to DI Steve Hagger (who led the 2000 Murder Review) providing the results of the testing which had occurred, advising him of the following:

- i. Daniel Morgan's trousers had been re-examined in detail. Slightly more blood was located than had been found in the original, limited, examination of the garment. However, tests proved inconclusive.<sup>1001</sup> Further examination of the damaged area of the trousers by Philip Toates did not provide any scope for additional investigation or any new information.<sup>1002</sup>

During interview with the Panel in 2016, Philip Toates said that blood typically presents in obvious forms. His notes indicated that when the trousers were first examined, DNA profiling was not available, and the staining would not have been suitable for DNA profiling in 2001.<sup>1003</sup>

- ii. A sample of the blood found on Daniel Morgan's shirt had been used to obtain his DNA profile for comparison with results obtained from other items.<sup>1004</sup> Although the sample produced an incomplete profile, probably as '*a consequence of its condition and age*',<sup>1005</sup> it '*did give an indication of the likely full profile*'.<sup>1006</sup>

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998 Document D175, Letter to DI Steve Hagger from Philip Toates, MPS061526001, pp3-5, 09 March 2001.

999 2000 Murder Review Report, MPS020525001, pp75-76, 06 October 2000.

1000 Record of property concerned in crime, MPS026878001, p1, 11 March 1987.

1001 Document D175, Letter to DI Steve Hagger from Philip Toates, MPS061526001, p4, 09 March 2001.

1002 Document D175, Letter to DI Steve Hagger from Philip Toates, MPS061526001, p5, 09 March 2001.

1003 Panel interview with Philip Toates, p2, 03 August 2016.

1004 Document D175, Letter to DI Steve Hagger from Philip Toates, MPS061526001, p3, 09 March 2001.

1005 Document D175, Letter to DI Steve Hagger from Philip Toates, MPS061526001, p3, 09 March 2001.

1006 Document D175, Letter to DI Steven Hagger from Philip Toates, MPS061526001, p3, 09 March 2001.

354. The bank notes which had been re-submitted and had previously been exposed to treatments for the development of latent finger marks were unsuitable for any DNA profiling tests: very little of the original blood staining remained, since most had been cut out in the initial examination. Three samples, which had been retained prior to finger mark treatments, were submitted for DNA Short Tandem Repeat<sup>1007</sup> profiling. Only one sample from the £10 note gave a weak and incomplete result which indicated the presence of DNA from at least two different people. Some of the DNA components might have come from Daniel Morgan himself. DNA components, which could not have come from Daniel Morgan, need not have originated from blood on the note but may have been due to accumulated sweat and/or skin debris, given that the bank note must have been handled by numerous people. No evidential significance could be attached to the findings from this bank note.<sup>1008</sup>

355. On 01 June 2002, an Exhibits Officer was instructed to identify and transfer exhibits and papers from all previous investigations into Daniel Morgan's murder.<sup>1009</sup> On 10 June 2002, he handed over 21 original exhibits concerning forensic evidence from the Morgan One Investigation to A/DCI Neil Hibberd,<sup>1010</sup> who then handed these items to DC Peter Summers on 11 June 2002.<sup>1011</sup> These items formed the first 21 items in the Abelard One/Morgan Two Investigation Exhibit Book.<sup>1012</sup>

356. The Panel has established that Daniel Morgan's trousers were not handed to DC Peter Summers on 11 June 2002.<sup>1013</sup> The Panel has been unable to identify exactly where Daniel Morgan's trousers were held in 2002, as the first entry into the HOLMES2 database was recorded in 2003, indicating that Daniel Morgan's trousers were by then stored in the Metropolitan Police exhibits store.<sup>1014</sup>

357. After examining the results of the testing commissioned by the 2000 Murder Review, the Abelard One/Morgan Two Investigation revisited several aspects of the forensic evidence to see whether technological advances would enable more information to be extracted.<sup>1015</sup>

358. During an office meeting held on 30 April 2001, DCI David Zinzan had suggested a reconstruction of Daniel Morgan's murder using the pathology reports completed at the time to see whether it was possible to secure a physical profile of the suspect, for example establishing the height of the assailant(s) or whether they were right- or left-handed.<sup>1016</sup>

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1007 Short Tandem Repeat profiling is a sensitive DNA analysis technique. A DNA (or Short Tandem Repeat) profile obtained from a human body fluid such as blood or saliva can be compared with the Short Tandem Repeat [profile] of a given person. If the profiles are different then the body fluid could not have originated from the person in question. If, on the other hand, the Short Tandem Repeat profiles are the same, then that individual, and anyone else who shares the same profile, can be considered as a possible source of the body fluid. The significance of finding such a match can then be assessed. Source: Witness statement of a LGC Forensics Senior Reporter/Lead Scientist, MPS078620001, pp8-9, 16 May 2007.

1008 Document D175, Letter to DI Steve Hagger from Philip Toates, MPS061526001, p4, 09 March 2001.

1009 Action A197, MPS041062001, 01 June 2002.

1010 Schedule of exhibits book given to DCI Neil Hibberd, MPS042646001, pp2-5, 10 June 2002. (Daniel Morgan's trousers had erroneously been included in this schedule).

1011 21 x screenshots from the exhibits database on the Metropolitan Police D25 HOLMES2 computer account for the Morgan Two Investigation, MPS109751001, 11 June 2002.

1012 21 x screenshots from the exhibits database on the Metropolitan Police D25 HOLMES2 computer account for the Morgan Two Investigation, MPS109751001, 11 June 2002.

1013 Morgan Two Investigation HOLMES2 computer record – exhibits database, exhibit X2, (trousers of Daniel MORGAN), 11 June 2002.

1014 Morgan Two Investigation HOLMES2 computer record – exhibits database, exhibit X2, (trousers of Daniel MORGAN), 11 June 2002.

1015 Letter to A/DCI Neil Hibberd from Philip Toates, MPS005301001, pp3-5, 21 May 2003.

1016 Minutes of meeting, MPS040531001, p2, 30 April 2001.

359. There were lengthy and extensive discussions with the forensic scientist Philip Toates about possible avenues of enquiry.<sup>1017</sup> Requests were made for further examination of four items which had been submitted to the laboratory during the Morgan One Investigation: the axe,<sup>1018</sup> the sticking plaster (Elastoplast) found on the axe,<sup>1019</sup> Daniel Morgan's trousers<sup>1020</sup> and his suit jacket.<sup>1021</sup>

### *13.2.1.1 The axe and the Elastoplast tape from the axe*

360. On 10 May 2001, the Elastoplast tape that was stuck to the handle of the axe was subjected to further DNA testing using a new technique, 'SGN plus'.<sup>1022,1023</sup> Philip Toates reported on 15 June 2001 that DNA profiling had been attempted on three areas of the plaster dressing with negative results.<sup>1024</sup> He confirmed this result in 2003.<sup>1025</sup>

361. It was established that there were three partial fingerprint marks<sup>1026</sup> on the axe.<sup>1027,1028</sup> These marks were checked against the fingerprints of James Cook, Glenn Vian, Garry Vian, former DS Sidney Fillery, Paul Goodridge and former Police Officer Z31.<sup>1029,1030</sup> Negative results were provided on 18 May 2001.<sup>1031</sup> Records show that the marks were not checked against the fingerprints of Jonathan Rees because no fingerprints were available at that time.<sup>1032</sup> However, as Jonathan Rees had been convicted of perverting the course of justice on 14 December 2000, his fingerprints should have been available to the Abelard One/Morgan Two Investigation (see Chapter 4, Operation Nigeria/Two Bridges). Jonathan Rees's fingerprints were compared with the fingerprints found on the murder weapon in 2016. No useful marks were found.<sup>1033</sup>

### *13.2.1.2 Hairs and fibres found when the axe was first examined*

362. On 21 May 2003, Philip Toates reported that Sellotape tapings with adhering hairs and fibres found when the axe was first examined, were unsuitable for Low Copy Number DNA testing.<sup>1034</sup>

363. A number of hairs which had been recovered from the packaging of the axe, and from the head of the axe itself (which may have come from Daniel Morgan, and which had not been examined in any detail in 1987) could not be found in 2003 among the retained material located at the laboratory. It was reported to be unlikely that the hairs would be recovered.<sup>1035</sup>

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1017 Panel interview with Philip Toates, 03 August 2016.

1018 Action A8, MPS040331001, 14 May 2001.

1019 Action A9, MPS040341001, 14 May 2001.

1020 Action A9, MPS040870001, 14 May 2001.

1021 Action A348, MPS005991001, 20 February 2003.

1022 Minutes of meeting, MPS040534001, p2, 14 May 2001.

1023 Action A19, MPS040341001, 14 May 2001.

1024 Document D108, Letter to DCI David Zinzan from Philip Toates, MPS042545001, p3, 15 June 2001.

1025 Letter to DI Hibberd from Philip Toates, MPS005301001, p3, 21 May 2003.

1026 A partial fingerprint mark which is found on a surface has insufficient ridge detail to provide the identification of a person by the comparison of their fingerprints with the mark that was found to an evidential standard.

1027 Message to a Detective Constable, MPS109542001, p5, undated.

1028 Minutes of meeting, MPS040531001, p1, 30 April 2001.

1029 Minutes of meeting, MPS040531001, p1, 30 April 2001.

1030 Fingerprint examination schedule, MPS109542001, p8, undated.

1031 Message to the Detective Constable, MPS109542001, p6, 18 May 2001.

1032 Fingerprint examination schedule, MPS109542001, p8, undated.

1033 'Major Crime Fingerprint Report', MPS109636001, pp8 and 40, 14 June 2016.

1034 Letter to DI Hibberd from Philip Toates, MPS005301001, pp4-5, 21 May 2003.

1035 Letter to DI Hibberd from Philip Toates, MPS005301001, p5, 21 May 2003.

### 13.2.1.3 Daniel Morgan's jacket and trousers

364. Philip Toates subsequently explained to the Panel that the jacket had been bagged-up and any loose hairs on the jacket would have been in that bag. He did not think that he had re-examined the jacket.<sup>1036</sup> He explained that, when visually examining an item such as the jacket, he would spread brown paper on an examination bench, placing the jacket on the paper. When finished, he would fold the item up in the brown paper, put it in the exhibits bag and seal it. This would mean any loose hairs or extraneous fibres would be caught in the brown paper.<sup>1037</sup>

365. An attempt was made to determine whether saliva from Daniel Morgan's attacker could be found on his jacket, as this might enable DNA examination. However, it was established through liaison with Philip Toates that this would not be possible because of the previous testing.<sup>1038</sup>

366. Tests for saliva were carried out on Daniel Morgan's jacket in 2006 during the Abelard Two Investigation (see Chapter 8, The Abelard Two Investigation). Nothing to assist the investigation was found.

367. Although there is no suggestion Philip Toates had not carried out the work effectively, the Panel considers that the Abelard One/Morgan Two Investigation should have initiated an independent review of the original exhibits, submissions, reports and case notes in 2002. A second forensic scientist could have brought a fresh pair of eyes and an independent perspective to the review of the material.

### 13.2.1.4 The search for further forensic evidence

368. It was decided to ascertain what examinations, if any, had been conducted on any clothing attributable to Jonathan Rees and Glenn Vian for consideration of further forensic examination. The Panel enquired of the Metropolitan Police whether this had been done and were advised by email that the Metropolitan Police *'has been unable to locate a documented result for the relevant actions to check whether Jonathan REES's<sup>1039</sup> and Glenn VIAN's<sup>1040</sup> clothing had been submitted for forensic testing'*.<sup>1041</sup> The Panel has been unable to ascertain which clothing it was intended to test. The Panel has found no evidence that any clothing was tested.

369. None of Jonathan Rees's clothing had been seized during the Morgan One Investigation so none could be re-submitted for forensic testing.<sup>1042,1043,1044,1045</sup> The Hampshire/Police Complaints Authority Investigation had seized and submitted for examination, among other items, one red jumper belonging to Jonathan Rees.<sup>1046,1047,1048</sup> This jumper, which had *'a tiny stain at the right*

1036 Panel interview with Philip Toates, p4, 03 August 2016.

1037 Panel interview with Philip Toates, p2, 03 August 2016.

1038 Action A348, MPS059788001, p1, 20 February 2003.

1039 Action A43, 'Ascertain if William Jonathan Rees's Clothing was submitted to the forensic lab', MPS040906001, 11 June 2001.

1040 Action A43, 'Ascertain if Glen [sic] VIAN's clothing was submitted to the forensic lab', MPS040906001, 11 June 2001.

1041 E-mail response from Metropolitan Police, 17 May 2016.

1042 Witness statement of DI Allan Jones, MPS010549001, p1, 09 April 1987.

1043 Witness statement of D/Supt Douglas Campbell, MPS010913001, p2, 06 April 1987.

1044 Premises search record for Southern Investigations, MPS014843001, 03 April 1987.

1045 Custody record of Jonathan Rees, MPS014837001, p3, 03 April 1987.

1046 Witness statement of a Police Constable, MPS018139001, p1, 07 April 1989.

1047 Articles forwarded for examination, MPS021872001, p1, 13 February 1989.

1048 Letter to DCS Alan Wheeler from Philip Toates, MPS071212001, p1, 14 July 1989.

*cuff*, was found at Jonathan Rees's business address in 1989.<sup>1049,1050</sup> The stain was identified as being '*blood of human origin*', however it had not been possible to group the blood from this red jumper.<sup>1051</sup> This jumper had been returned to Jonathan Rees on 06 July 1989 (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).<sup>1052</sup>

370. Attempts were made to establish the whereabouts of the raincoat worn by Jonathan Rees on the night of Daniel Morgan's murder<sup>1053,1054</sup> (see Chapter 1, The Morgan One Investigation). Jonathan Rees had said that he had left it with his solicitor, Michael Goodridge.<sup>1055</sup> On 18 September 2002, a witness statement was taken from Michael Goodridge. He was asked about his knowledge of the raincoat that Jonathan Rees was wearing on the evening of Daniel Morgan's murder. In response, he stated that '*[t]o the best of my knowledge I at no time took possession of this item of property and I do not believe that my firm which has represented Jonathan REES on occasions had any dealings with regards to this coat*'.<sup>1056</sup>

371. One pair of trousers, seized on 03 April 1987, described as belonging to Glenn Vian, had been sent for forensic examination for traces of blood which might be identical to the blood found on the axe.<sup>1057</sup> No blood had been found on the trousers.<sup>1058</sup> No further testing was conducted.

372. The Abelard One/Morgan Two Investigation team could have done more to secure forensic evidence, particularly in light of the advancing technology. The Panel's independent forensic expert, Dr Kathryn Mashiter, stated that the fibres retrieved from the murder weapon should have been given much more attention than they were by Philip Toates.

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1049 Witness statement of the Police Constable, MPS018139001, p1, 07 April 1989.

1050 Letter to DCS Alan Wheeler from Philip Toates, MPS071212001, pp1-2, 14 July 1989.

1051 Letter to DCS Alan Wheeler from Philip Toates, MPS071212001, p2, 14 July 1989.

1052 Exhibit Label TIM/15, MPS011672001, 06 July 1989.

1053 Action A29, MPS059405001, 11 November 2002.

1054 Action A30, MPS059412001, 20 September 2002.

1055 Action A1623, MPS014686001, p1, 28 April 1988.

1056 Witness statement of Michael Goodridge, MPS062396001, 18 September 2002.

1057 Report to submit various articles belonging to Daniel Morgan to the forensic laboratory, MPS025489001, 13 April 1987.

1058 Forensic report by Philip Toates, MPS011412001, p3, 19 August 1987.



373. Most of the recommendations of the 2000 Murder Review Report were acted on, although a few appear not to have been pursued to the extent that they might have been (for example, making a further attempt to speak to former DC Thomas Kingston). The Panel has found no evidence that the recommendations were formally prioritised, and it is difficult, retrospectively, to gauge whether the investigative resources and effort devoted to the recommendations was proportionate to their potential importance and emerging evidential value. The Panel has concluded that the fit between priority and investigative effort was generally good. The main focus was on the 'key suspects' or 'witnesses' and the evidence gathered generally matched the analysis of the Murder Review Report and the proposition that major evidential advances were likely to come from covert surveillance focused on the 'key suspects', which was undertaken by the Abelard One/Morgan Two Investigation.

### 13.3 Intelligence received

374. On 24 June 1998, information was received by the Metropolitan Police alleging that '*REECE's [sic] wife's brother was responsible for the murder of Daniel MORGAN at the Golden Lion PH in Sydenham*'.<sup>1059</sup> The intelligence report appears to imply that the source of this information had been told this by former DC Duncan Hanrahan, who was reported as saying that Daniel Morgan had been about to expose police corruption.<sup>1060</sup> The source of this information was recorded as '*Known to the Officer*'. The Abelard One/Morgan Two Investigation followed up on this and tried to ascertain the source of this information.<sup>1061</sup> Nothing useful was obtained from this line of enquiry.

## 14 DCS David Cook's advice file to the Crown Prosecution Service, March 2003

### 14.1 Summary of DCS David Cook's advice file

375. On 07 March 2003, DCS David Cook submitted his advice file, which set out the material and evidence the Abelard One/Morgan Two Investigation had obtained, to the Crown Prosecution Service.<sup>1062</sup>

376. The file, which comprised 129 pages, contained a detailed description of the conduct and methodology of the Abelard One/Morgan Two Investigation, including where and when covert probes had been placed, how this was combined with conventional surveillance, and how triggers were employed in the hope that it would provoke the key suspects to discuss Daniel Morgan's murder, possibly incriminating themselves. It included some analysis of the post mortem and the previous investigations of Daniel Morgan's murder, before concluding with a review of the evidence against the key suspects.<sup>1063</sup>

1059 Message M110, MPS040230001, 01 August 2002.

1060 Intelligence report, MPS047138001, p2, 24 June 1998.

1061 Message M110, MPS040230001, 01 August 2002.

1062 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp2-130, 07 March 2003.

1063 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp2-130, 07 March 2003.

377. The file concluded that *'the investigation team [were] of the firm belief that there [was] sufficient evidence to charge William Jonathan REES, Glen [sic] VIAN and James COOK with a Conspiracy to Murder Daniel MORGAN'*.<sup>1064</sup> DCS David Cook sought advice as to whether James Cook, Person D28 and Person D29 should be charged with conspiracy to pervert the course of justice, in respect of their plan to provide a false alibi for James Cook on the night of the murder. He sought advice as to whether former DS Sidney Fillery should be charged with misconduct in public office.<sup>1065</sup> The file contained a report on the activities of former DS Fillery, in relation to the role which the family of Daniel Morgan believed he may have played in planning and covering up the murder.<sup>1066</sup> Finally, he sought advice in relation to a number of other issues, unrelated to the murder of Daniel Morgan, which had emerged during the course of the investigation.

378. The report opened with a short biography of Daniel Morgan, after which DCS David Cook provided background information about Jonathan Rees, Glenn Vian and James Cook, as well as *'Other Relevant Persons'* whose names arose during the course of the report.<sup>1067</sup> DCS Cook also provided an account of Southern Investigations and the Belmont Car Auctions robbery,<sup>1068</sup> before turning his attention to possible motives for the murder of Daniel Morgan.<sup>1069</sup>

#### **14.1.1 Possible motives for the murder as described by DCS David Cook**

379. The file examined the various motives which had been identified over the years, saying that some of these suggested motives were *'honestly held opinions of the victim's friends and family, and some the result of speculation and misinformation'*.<sup>1070,1071</sup> These motives were:

- i. *'The ill-feeling brought about by the Belmont Car Auctions civil action'*;
- ii. *'The Disgruntled Client'*;
- iii. *'Robbery'*;
- iv. *'Financial embezzlement by Daniel MORGAN'*;
- v. *'Daniel MORGAN's affair with Margaret HARRISON'*;
- vi. *'REES's hatred of MORGAN'*; and
- vii. *'That the murder of Daniel MORGAN is linked to the suicide of DC HOLMES.'*<sup>1072</sup>

##### **14.1.1.1 The first possible motive: 'The ill-feeling brought about by the Belmont Car Auctions civil action'**

380. DCS David Cook recorded that the civil action taken by Belmont Car Auctions to recover £18,280.62 had caused Daniel Morgan *'much anxiety and annoyance'*, that *'he had serious misgivings about the robbery being genuine'*, and that the requirement, following the preliminary

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1064 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p130, 07 March 2003.

1065 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p130, 07 March 2003.

1066 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p6, 07 March 2003.

1067 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp5-15, 07 March 2003.

1068 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp15-21, 07 March 2003.

1069 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp21-32, 07 March 2003.

1070 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p21, 07 March 2003.

1071 2000 Murder Review Report, MPS020525001, pp35, 45, 49, 51, 52, 55, 57, and 61, 06 October 2000.

1072 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp21-32, 07 March 2003.

court hearing on 05 March 1987, to deposit £10,000 with the High Court had *'made MORGAN both furious and depressed. This may have driven REES to finally dispense with an already hated, troublesome partner.'*<sup>1073</sup>

#### 14.1.1.2 The second and third possible motives: *'The Disgruntled Client'* and *'Robbery'*

381. After a short review of the information available to him, DCS David Cook concluded in his report that there was *'no evidence'* that the motive was that of a disgruntled client, and that *'robbery as a motive appears to be highly unlikely'*.<sup>1074</sup> DCS Cook noted that *'MORGAN received a "heavy call" upon his return from repossessing a vehicle in MALTA in February 1987'*.<sup>1075</sup> He concluded that *'[t]his motive has been investigated by the previous and current investigation teams and a number of individuals have been traced, interviewed and eliminated. There is no evidence to suggest that his [Daniel Morgan's] death was caused by an aggrieved client [...].'*<sup>1076</sup>

382. In considering the possibility that Daniel Morgan was murdered in the course of a robbery, DCS David Cook outlined DC Noel Cosgrave's statement that he had seen a watch on Daniel Morgan's wrist as he lay in the car park of the Golden Lion public house,<sup>1077</sup> despite this evidence contradicting DC Cosgrave's former statements (in three statements he had not mentioned a watch on Daniel Morgan's body, and in one he was unable to say whether a watch was on Daniel Morgan's body). DCS Cook then stated that there was no evidence to identify the person who had stolen the watch. Noting that the large sum of money which Daniel Morgan had had in his pocket had not been stolen, and the way in which Daniel Morgan had been murdered, he concluded that *'robbery as a motive appears to be highly unlikely'*.<sup>1078</sup>

#### 14.1.1.3 The fourth possible motive: an allegation of *'Financial embezzlement by Daniel MORGAN'*

383. According to John Peacock, Jonathan Rees had told him that Daniel Morgan had been involved with financial embezzlement from Southern Investigations. Analysis of the finances of Southern Investigations had been carried out by the Abelard One/Morgan Two Investigation. DCS David Cook concluded in his report that the financial dealings identified by the forensic accountant,<sup>1079,1080,1081,1082</sup> and the fact that Daniel Morgan had set up another company with the intention of substantially reducing the amount of money which Jonathan Rees would receive from Daniel Morgan's work, *'adds to an overall motive for REES'*.<sup>1083</sup>

#### 14.1.1.4 The fifth possible motive: *'Daniel MORGAN's affair with Margaret HARRISON'*

384. Daniel Morgan's affair with Margaret Harrison had been investigated by both the Morgan One (see Chapter 1) and Hampshire/Police Complaints Authority investigations (see Chapter 3). Margaret Harrison had admitted that she was not telling the truth, both to these investigations

1073 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp21-22, 07 March 2003.

1074 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp22-24, 07 March 2003.

1075 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp22-23, 07 March 2003.

1076 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p23, 07 March 2003.

1077 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p23, 07 March 2003.

1078 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp23-24, 07 March 2003.

1079 Financial Report of the forensic accountant, *'Review of Cessation of Accounts for the Period 01/03/86 to 10/03/87'*, pp29-32, MPS060066001, 27 September 2002.

1080 *'Review of Correspondence files held by Lean, Newton & Cary'*, MPS060066001, pp36-49, 28 October 2002.

1081 *'Conclusions based on: Review of Cessation accounts for the period 01/03/86 to 10/03/87 (27/09/02) and Review of Correspondence files held by Lean, Newton & Cary (28/10/2002)'*, MPS060066001, pp50-52, 29 October 2002.

1082 *'Financial profile Southern Investigations'*, MPS060066001, pp4-26, undated.

1083 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p27, 07 March 2003.

and during her evidence at the Inquest, about the extent of her involvement with Jonathan Rees. Margaret Harrison was visited twice by the Abelard One/Morgan Two Investigation, in June and October 2002.<sup>1084,1085</sup> The record of the first meeting stated that she had been ‘*very reluctant to speak to police*’.<sup>1086</sup> She had said that she was ‘*close*’ to Jonathan Rees, whom she had visited in prison,<sup>1087</sup> and that she still moved in the ‘*same circles*’ as she had at the time of the murder.<sup>1088</sup>

385. DCS David Cook noted that letters retrieved during a search of Law & Commercial’s offices revealed that Margaret Harrison was responsible for Jonathan Rees’s financial affairs while he was in prison.<sup>1089</sup>

386. Having provided a summary of the evidence regarding Margaret Harrison,<sup>1090</sup> DCS David Cook concluded that ‘*[i]t is reasonable to believe that prior to MORGAN’s murder, some form of relationship had commenced between REES and HARRISON. They are still in a relationship today and she visits him in prison on a regular basis. The fact that MORGAN was meeting HARRISON socially could have only added to REES’ dislike of him.*’<sup>1091</sup>

#### *14.1.1.5 The sixth possible motive: ‘REES’s hatred of MORGAN’*

387. DCS David Cook reported that a number of individuals had provided evidence of ‘*the ill feeling between MORGAN and REES*’.<sup>1092</sup> He referred to the fact that Jonathan Rees ‘*grew to despise MORGAN. He couldn’t suffer his personality, his behaviour, and client complaints about MORGAN’s inability to deal with files in the office.*’<sup>1093</sup> He concluded, ‘*[t]he relationship between the partners had deteriorated over the years to a point where REES was often openly hostile towards MORGAN and both were talking to third parties about ending the partnership. REES [sic] hatred of MORGAN could have only contributed to an overall motive.*’<sup>1094</sup>

#### *14.1.1.6 The seventh possible motive: ‘That the murder of Daniel Morgan is linked to the suicide of DC HOLMES’*

388. Earlier in his advice file, DCS David Cook had stated in relation to Daniel Morgan that ‘*[i]t is not known whether MORGAN was a Freemason, but there is information that a police associate, DC Alan [‘Taffy’] HOLMES, was intending to introduce him into a Lodge in the Croydon area*’.<sup>1095</sup>

389. While considering evidence of any possible link between the death by suicide of DC Alan Holmes and the motive for the murder of Daniel Morgan, DCS David Cook reiterated the accusation made by Jonathan Rees to DCS Alan Wheeler of the Hampshire/Police Complaints Authority Investigation, that ‘*HOLMES, Ray ADAMS and the Brinksmat [sic] job was connected to the murder of Danny MORGAN. Danny had been to the Private Eye and another paper. He was to get £10,000 for this information*’<sup>1096</sup> (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). He also relayed similar information received from a witness, who

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1084 Action A6, MPS059373001, p1, 29 June 2002.

1085 Action A230, MPS059664001, p1, 10 October 2002.

1086 Action A6, MPS059373001, p1, 29 June 2002.

1087 Action A230, MPS059664001, p1, 10 October 2002.

1088 Action A6, MPS059373001, p1, 29 June 2002.

1089 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p10, 07 March 2003.

1090 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp27-28, 07 March 2003.

1091 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p29, 07 March 2003.

1092 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p29, 07 March 2003.

1093 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p29, 07 March 2003.

1094 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p30, 07 March 2003.

1095 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p5, 07 March 2003.

1096 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p30, 07 March 2003.

stated that '*[s]he had been told by REES that Daniel MORGAN had obtained information from DC HOLMES regarding the activities of Commander ADAMS and the Brinksmat [sic] robbery and that he was going to sell this information to a newspaper*'.<sup>1097</sup>

390. DCS David Cook recounted the corruption investigation into Commander Ray Adams and the associated investigation into DC Alan Holmes for providing information to Commander Adams about the corruption investigation.<sup>1098</sup> DCS Cook went on to report the death by suicide of DC Holmes in July 1987, the circumstances of which he said had been '*fully investigated*'.<sup>1099</sup> He concluded that '*[t]here is nothing to link the death of DC HOLMES, the activities of ex-Commander ADAMS, or the Brinksmat [sic] robbery to the MORGAN murder*',<sup>1100</sup> and added:

*'[i]t is possible that the Brinksmat [sic] robbery, and the death of DC HOLMES was seen as a convenient piece of misinformation for REES to exploit in order to divert the investigation team. There is certainly no evidence linking either issue to MORGAN's death.'*<sup>1101</sup>

391. There is no evidence in the material available to the Panel to support the allegation that DC Alan Holmes's death was linked to the death of Daniel Morgan, and therefore the Panel accepts the finding by DCS David Cook that there was no connection.

392. DCS David Cook had previously reported that DC Alan Holmes was intending to introduce Daniel Morgan to a Masonic Lodge in the Croydon area.<sup>1102</sup> Any possible connection with Freemasonry was not investigated during DCS Cook's investigation, although the links between different police officers who were members of the Masonic Order were investigated at various times after Daniel Morgan's death.

393. DCS David Cook's statement that Daniel Morgan was to be introduced to Freemasonry by DC Alan Holmes was not supported by any first-hand account. There was no firm evidence that the two men even knew each other.

1097 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp30-31, 07 March 2003.

1098 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp30-31, 07 March 2003.

1099 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p31, 07 March 2003.

1100 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p31, 07 March 2003.

1101 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p32, 07 March 2003.

1102 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p5, 07 March 2003.



### 14.1.2 DCS David Cook's conclusion regarding motive

394. In his report, DCS David Cook concluded that:

*'[a]lthough a number of motives have been examined, it is the investigation team's view that a combination of motives resulted in REES conspiring to have MORGAN murdered. It is believed that the ill-feeling between the partners surrounding the Belmont Car Auctions civil action, REES' affair with Margaret HARRISON, MORGAN's withdrawal of cash from the business, and REES' general hatred of MORGAN, all contributed towards a strong motive for REES.'*<sup>1103</sup>

## 14.2 The analysis of events leading up to the murder, and the murder itself

395. In examining the events leading up to the murder,<sup>1104</sup> DCS David Cook took as his starting point the fact that *'[i]t is clear that MORGAN was upset by the Belmont Car Auctions affair and in particular that Southern Investigations had to submit £10,000 with the Court'*.<sup>1105</sup> He also noted that Jonathan Rees's *'police associates were likely to be placed in jeopardy, as it would be alleged during any civil proceedings that they were "moonlighting" as security guards'*.<sup>1106</sup>

396. DCS David Cook also noted reports from Iris Morgan and a woman who had allegedly had an affair with Daniel Morgan, about Daniel Morgan's depression and worry about the civil action.<sup>1107</sup>

397. DCS David Cook went on to detail evidence that Jonathan Rees was with former DS Sidney Fillery on either 07 or 08 March 1987, and that on 08 March 1987, Jonathan Rees contacted James Cook from his car phone, a matter of which the Morgan One Investigation became aware, but *'[h]is significance was not appreciated at that time and the inquiry was not followed to conclusion'*.<sup>1108</sup>

398. DCS David Cook described the visit by Daniel Morgan and Jonathan Rees to the Dolphin public house and the Golden Lion public house on 09 March 1987 (see Chapter 1, The Morgan One Investigation), commenting that it was *'unusual for them to be drinking in the Sydenham area'*.<sup>1109</sup>

399. DCS David Cook noted that various individuals had described Daniel Morgan as being loud and argumentative on the evening of 09 March 1987, and that he and DS Sidney Fillery had had an argument in the Golden Lion public house.<sup>1110</sup> Former DS Fillery acknowledged in Autumn 2020 to the Panel that he and Daniel Morgan had a *'heated discussion'* on the evening of 09 March 1987 but that *'it all ended amicably'*.

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1103 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p32, 07 March 2003.

1104 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp32-38, 07 March 2003.

1105 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p34, 07 March 2003.

1106 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p33, 07 March 2003.

1107 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p34, 07 March 2003.

1108 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p34, 07 March 2003.

1109 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p35, 07 March 2003.

1110 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p35, 07 March 2003.

400. DCS David Cook then summarised the events on the day of the murder, as identified by the Morgan One and Hampshire/Police Complaints Authority investigations.<sup>1111</sup> He described those who had been identified as being in the Golden Lion public house, noting that there was *'little direct evidence as to the presence of MORGAN and REES in the pub, and no evidence of the conversation they were involved in'* on 10 March 1987.<sup>1112</sup>

401. In considering the choice of the Golden Lion public house for the meeting that evening, DCS David Cook concluded that it was a strange choice, given that it was not a regular venue for Jonathan Rees, Daniel Morgan or Paul Goodridge (who denied that he had been invited to attend and did not attend) and did not appear to be particularly convenient for any of them.<sup>1113</sup> DCS Cook wrote that:

*'[w]hatever the reason for choosing the Golden Lion very few people other than REES, MORGAN and MORGAN's killer/s were aware of the location of the meeting. Presumably, if anyone had a personal grudge against MORGAN they would have more chance of finding him in the Thornton Heath area where he worked and socialised.'*<sup>1114</sup>

402. DCS David Cook recorded the discovery of Daniel Morgan's body by a witness and noted there had been *'no deflected or defence wounds on [Daniel Morgan's] body. The handle of the axe had been taped with two rings of plaster, which may have aided the attackers [sic] grip. All of these factors suggest that the attack was premeditated and well planned.'*<sup>1115</sup>

#### 14.2.1 The scene of the murder

403. DCS David Cook described the car park of the Golden Lion public house as being a *'poorly lit, enclosed area'*;<sup>1116</sup> that *'[f]ew properties overlook the car park and views from them are extremely restricted'*;<sup>1117</sup> and that *'[i]t is highly improbable that pedestrians using the pub would go to the unnecessary lengths of using the rear entrance'*.<sup>1118</sup> These factors led DCS Cook to conclude:

*'[i]t is therefore reasonable to assume that anyone secreted in the car park would be undisturbed other than by headlights of a vehicle using the bumpy alleyway leading to the car park, or by the additional light reflected from the public house when a customer left via the rear entrance to walk to the car park.'*

*'The attacker would have the advantage of being in complete control of an enclosed area and be aware of others that might be in the vicinity.'*<sup>1119</sup>

#### 14.2.2 Events immediately after the murder

404. DCS David Cook commented that *'[t]here are a number of inconsistencies surrounding REES [sic] account of his movements following his departure from the pub'*.<sup>1120</sup>

1111 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp34-38, 07 March 2003.

1112 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p39, 07 March 2003.

1113 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p37, 07 March 2003.

1114 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p38, 07 March 2003.

1115 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p38, 07 March 2003.

1116 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p40, 07 March 2003.

1117 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p40, 07 March 2003.

1118 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p40, 07 March 2003.

1119 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p40, 07 March 2003.

1120 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p41, 07 March 2003.

405. DCS David Cook also noted that DS Sidney Fillery's alibi for the evening of 10 March 1987 had not been checked by the Morgan One Investigation, and that it had proved difficult for the Hampshire/Police Complaints Authority Investigation to complete satisfactorily the investigation of the matter.<sup>1121</sup> DCS Cook concluded that:

*'[t]here is no direct evidence to suggest that FILLERY was involved in the murder, however, he cannot be excluded from the planning phase, or frustrating the initial investigation.'*<sup>1122</sup>

### 14.3 The original Metropolitan Police investigation

406. DCS David Cook presented many of the findings made by the previous investigations into Daniel Morgan's murder within the advice file.<sup>1123</sup> He went on to recount D/Supt Douglas Campbell's conclusion in his final report to the Coroner after the Morgan One Investigation had been concluded that, *'whilst he suspected REES of committing or commissioning the murder there was insufficient evidence to bring criminal charges'*<sup>1124</sup> and that *'[t]here was no evidence against the VIAN brothers or the police officers'*.<sup>1125</sup>

### 14.4 The surveillance and probe evidence gathered by the Abelard One/Morgan Two Investigation

407. DCS David Cook listed the three phases of covert surveillance, the various police activities designed to promote discussion between the suspects, the use of telephone billing to assist in the analysis of what was heard on the probes (which had been placed in Person P9's home, Glenn Vian's home, and James Cook's car), and the material gathered on each day of the surveillance. He also reported on the various actions which had been taken by police to trigger conversation.<sup>1126</sup>

#### 14.4.1 The first phase of surveillance: 25 June 2002 – 12 July 2002

408. DCS David Cook identified several events which he believed to be relevant from the telephone bill analysis and from the transcripts of the recordings of conversations during the first phase of covert surveillance.<sup>1127</sup> The transcript excerpts which DCS Cook described included conversations recorded on 25 June 2002<sup>1128</sup> and 26 June 2002.<sup>1129</sup>

409. There was a conversation between Glenn Vian and Kim Vian on Friday 28 June 2002, in which he mentioned James Cook and a car. DCS David Cook reported the conversation which related to a car which had been damaged by Glenn Vian, including Glenn Vian's comments below:

- i. *'hoping that Gary [sic] would've got off...'*,
- ii. *'he's paid to ditch the other fucking motor,'* and

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1121 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p42, 07 March 2003.

1122 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p42, 07 March 2003.

1123 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp43-75, 07 March 2003.

1124 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p54, 07 March 2003.

1125 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p54, 07 March 2003.

1126 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp75-119, 07 March 2003.

1127 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp77-86, 07 March 2003.

1128 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp77-79, 07 March 2003.

1129 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp79-80, 07 March 2003.

- iii. '[w]hat do you think I'm going to do, go down...all down...'.<sup>1130</sup>

410. The meaning of these remarks was ambiguous. DCS David Cook did not make any comment.<sup>1131</sup>

411. A 20-minute telephone call had occurred on 29 June 2002 between a telephone at HMP Ford (where Jonathan Rees was imprisoned), former DS Sidney Fillery's home address and Glenn Vian's home address. There was no conversation recorded for unknown reasons, but DCS David Cook stated that, while he acknowledged that the people involved would have had a valid interest in the reinvestigation, it was significant that Jonathan Rees, former DS Fillery and Glenn Vian had contacted each other at this time.<sup>1132</sup>

#### 14.4.2 The second phase of surveillance: 23 September – 16 November 2002

412. DCS David Cook reported in detail on the material gathered during the second phase of covert surveillance.<sup>1133</sup> This included a description of the events following the meeting between James Ward, his solicitor and the Abelard One/Morgan Two Investigation on 01 October 2002.<sup>1134</sup>

413. Also, among the events DCS David Cook reported were the following:

- i. 01 October 2002, when Glenn Vian and another unidentified individual discussed the meeting that had taken place between James Ward and the police that day.<sup>1135</sup>
- ii. 03 October 2002, when Person P9 was arrested and provided information to the police.<sup>1136</sup>
- iii. 03 October 2002, when two telephone conversations took place between a telephone at HMP Ford (where Jonathan Rees was a prisoner), and the home of Glenn Vian: one at 11.59 and one at 18.06.<sup>1137</sup> Regarding the second call, DCS David Cook reported that '[s]he [Kim Vian] speaks to 'John' but there is nothing of significance in the conversation recorded'.<sup>1138</sup> DCS Cook also reported that Kim Vian had said, '[t]hey got him. They know he knows something and that he ain't saying nothing'.<sup>1139</sup>
- iv. The evening of 03 October, when James Cook collected Person D28 and Person D29 and took them to a restaurant. DCS David Cook suggested that '*the reason for this meeting was to arrange a false alibi for [James] COOK*' and that James Cook '*may have been anticipating a visit from the investigation team*'.<sup>1140</sup>
- v. Early on 04 October 2002, when Glenn Vian was recorded saying that Garry Vian had once told him that '*Sid bought walkie-talkies (inaudible) that's how he got (inaudible)*'.<sup>1141</sup> DCS David Cook said in his report that '*it can only be speculated that*

1130 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p81, 07 March 2003.

1131 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p81, 07 March 2003.

1132 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p82, 07 March 2003.

1133 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp86-109, 07 March 2003.

1134 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp87-109, 07 March 2003.

1135 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p87, 07 March 2003.

1136 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p88, 07 March 2003.

1137 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp88-89, 07 March 2003.

1138 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

1139 Audio summary, MPS043964001, p2, 03 October 2002.

1140 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p89, 07 March 2003.

1141 Audio summary, MPS050027001, p3, 04 October 2002.

*perhaps two way radios were used on the night of the murder to ensure the area was clear of potential witnesses, or to provide a signal to the killer. In light of this it is not possible to preclude FILLERY from the planning phase of the murder’.*<sup>1142</sup>

- vi. 05 October 2002, when James Cook was recorded discussing the arrest of Person P9.<sup>1143</sup> The excerpt DCS Cook provided in his report included the following comment from James Cook:

*‘I said to Jackie if they could, if they put a contract out on me, the only other way now is to fucking (inaudible) their only way to do that is by either putting me up, or fucking fitting me up on a moody fucking charge, or fucking planting something on me really...’.*<sup>1144</sup>

DCS Cook assessed that this comment by James Cook referred to ‘[Person P9] *talking to the police, and his belief that [Person P9] and [Person F11] had conspired to murder him in 1999, and their only option now was to fit him up’.*<sup>1145</sup>

- vii. DCS David Cook also provided summaries of the events recorded by surveillance on 07 October 2002, 10 October 2002 and 12 October 2002.<sup>1146</sup>

414. DCS David Cook went on to describe the police visit to Glenn Vian’s brother-in-law on 17 October 2002 and said that the visit ‘*generated a lot of conversation’.*<sup>1147</sup> DCS Cook then detailed extracts of these conversations in his report.<sup>1148</sup> However, no lines of enquiry for the murder investigation resulted from these conversations. DCS Cook then explained that the investigation into Daniel Morgan’s murder had been interrupted by activity between Garry and Glenn Vian which indicated to police that they were about to commit a crime using a firearm.

415. Further conversations were reported which related to the arrest of Garry Vian on 19 October 2002.<sup>1149</sup> DCS David Cook explained that Glenn Vian had been heard during the late evening of 21 October 2002 speaking about kidnap and torture and saying, ‘*...that’s why we’ve got to be careful about what we do to him...’.*<sup>1150,1151</sup> DCS Cook stated that, as a result, a decision was made to carry out 24-hour armed surveillance on Glenn Vian, as ‘*[i]t was suspected that Glen [sic] and Gary [sic] may attempt to interrogate those whom they suspected of talking to the investigation team’.*<sup>1152</sup>

416. After describing the arrest of Glenn Vian on 24 October 2002, DCS Cook explained that the surveillance phase of the investigation had ended in October 2002 ‘*when it was decided to review the information gathered. The investigation continued with various lines of inquiry’*, including visiting Person D28 and Person D29 to ascertain their knowledge of James Cook.<sup>1153</sup>

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1142 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p93, 07 March 2003.

1143 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp94-95, 07 March 2003.

1144 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p94, 07 March 2003.

1145 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p95, 07 March 2003.

1146 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp95-100, 07 March 2003.

1147 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p101, 07 March 2003.

1148 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp101-102, 07 March 2003.

1149 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp104-105, 07 March 2003.

1150 Audio summary, MPS043924001, p3, 21 October 2002.

1151 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p105, 07 March 2003.

1152 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p105, 07 March 2003.

1153 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp107-109, 07 March 2003.



417. Despite DCS David Cook's detailed summary of the product from the second phase of surveillance within the advice file, this phase had produced no new evidence to support the charges for murder that DCS Cook proposed. Although conversations were recorded between various people, such conversation was to be expected given the level of police activity in relation to the murder investigation.

#### 14.4.3 The third phase of surveillance: 16–20 December 2002

418. In this section of his report, DCS David Cook described the arrest and interview of Jonathan Rees and the arrest of James Cook, both of which occurred on 16 December 2002, reporting that *'[i]t was decided to interview John REES about the conversations regarding the murder gathered during Op Two Bridges. It was also decided to present Jimmy COOK with the probe material gathered during Operation MORGAN 2. It was hoped that this would generate further conversations within the VIAN household.'*<sup>1154</sup>

419. The excerpts of the transcripts from the third phase of covert surveillance reported to the Crown Prosecution Service by DCS David Cook included a conversation which took place following the arrests and a chance meeting between Kim Vian's daughter and members of the Abelard One Investigation team on 16 December 2002.<sup>1155</sup> The transcripts show that during the course of this conversation, Glenn Vian said *'obviously they know that Jimmy Cook's not got an alibi'*.<sup>1156</sup> Later Glenn Vian also said, *'what he's done is he's got them as an alibi and he's got it wrong'*.<sup>1157</sup> The Panel interprets this as referring to Person D28 and Person D29. DCS Cook did not include this information within the advice file.

420. DCS David Cook did report that, during this conversation, Glenn Vian and his wife also discussed her suggestion that she should provide alibi evidence for Glenn Vian. DCS Cook said that Glenn Vian *'went on to explain to his wife that she would be put under enormous pressure at Court if he used her as an alibi witness. He said that he would take the chance of not having an alibi'*.<sup>1158</sup> However, the full detail of this conversation was not included within DCS Cook's report. During this discussion, Glenn Vian was actually recorded as saying to his wife, *'[n]ow do you understand by not having a witness they have to run their chances with me and I'll fucking take the chance of not having an alibi', and 'I certainly wouldn't let you get in the box. Cos you're about as steady as a rock without no cement round it...'*<sup>1159</sup>

421. DCS David Cook also provided extensive detail of searches that were made on 17 December 2002 of various premises controlled by former DS Sidney Fillery.<sup>1160</sup> However, nothing of value to the Abelard One/Morgan Two Investigation was recorded as a result of these searches.

422. DCS David Cook did not identify within his report any new evidence from the third period of surveillance.

1154 Advice file R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp109-110, 07 March 2003.

1155 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp111-112, 07 March 2003.

1156 D1367, 'ENHANCED TRANSCRIPT VIAN HOUSE 16/12/2002', MPS000882001, p2, 14 July 2002.

1157 D1367, 'ENHANCED TRANSCRIPT VIAN HOUSE 16/12/2002', MPS000882001, p13, 14 July 2002.

1158 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p112, 07 March 2003.

1159 D1367, 'ENHANCED TRANSCRIPT VIAN HOUSE 16/12/2002', MPS000882001, p11, 14 July 2009.

1160 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp112-115, 07 March 2003.

## 14.5 Witnesses and relevant evidence

423. Within this section of his report, DCS David Cook considered the credibility of three witnesses, Kevin Lennon, Person P9 and Person F11, and the evidence they provided.<sup>1161</sup>

### 14.5.1 Kevin Lennon

424. DCS David Cook summarised the evidence provided by Kevin Lennon to the Morgan One Investigation and noted that the accounts which he had provided to the Morgan One Investigation, to the Inquest and to the Hampshire/Police Complaints Authority Investigation were consistent.<sup>1162</sup> DCS Cook commented that, during the evidence Kevin Lennon gave at the Inquest, he had been '*quite complimentary about REES*'.<sup>1163</sup>

425. DCS David Cook noted that Counsel for the Crown Prosecution Service had believed that Kevin '*LENNON's evidence would be discredited because, none of the office staff at Southern Investigations talked of REES' hatred of MORGAN, there was no evidence of Catford police involvement, and the fact that LENNON has a serious conviction for dishonesty*'. DCS Cook pointed out that '*a number of other individuals do talk of REES being openly hostile towards MORGAN*'.<sup>1164</sup>

426. DCS David Cook also drew attention to the fact that Kevin Lennon had claimed in his statement that he had been told by Jonathan Rees that former DS Sidney Fillery would take Daniel Morgan's place at Southern Investigations.<sup>1165</sup> DCS Cook commented that the fact that these events had indeed later transpired '*does add some corroboration to the account provided by LENNON*'.<sup>1166</sup> In considering the evidential value of Kevin Lennon's account, DCS Cook also referred to a conversation in 1999 in the offices of Law & Commercial (formerly Southern Investigations), when Jonathan Rees was recorded as saying, '*the coup that the MET [Metropolitan Police] had was to get Kev LENNON on their side*'.<sup>1167</sup>

427. DCS David Cook concluded that Kevin Lennon would be an important witness in any prosecution case.<sup>1168</sup> However, he reported that Kevin Lennon had recently been '*approached by a third party and informed that it would be dangerous for him to say any more to the police*'.<sup>1169</sup> DCS Cook also said that '*[a]lthough The Crown held the view in 1989 that LENNON's evidence would be affected by a serious conviction for dishonesty, there are no current proceedings against him [Kevin Lennon] and he is willing to give evidence*'.<sup>1170</sup>

### 14.5.2 Person P9

428. DCS David Cook detailed in his report the information which Person P9 had provided to the Abelard One/Morgan Two Investigation team after his arrest on 03 October 2002 (see paragraph 207 above).<sup>1171</sup> He said that Person P9 had subsequently said that he was afraid and was not prepared to give this evidence in Court.<sup>1172</sup>

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1161 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp119-124, 07 March 2003.

1162 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp119-122, 07 March 2003.

1163 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p120, 07 March 2003.

1164 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp120-121, 07 March 2003.

1165 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p120, 07 March 2003.

1166 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p121, 07 March 2003.

1167 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p122, 07 March 2003.

1168 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p122, 07 March 2003.

1169 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p122, 07 March 2003.

1170 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p122, 07 March 2003.

1171 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp122-124, 07 March 2003.

1172 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p123, 07 March 2003.

429. DCS David Cook went on to recount within his report that, at a meeting on 23 January 2003, Colin Gibbs of the Crown Prosecution Service had expressed reservations regarding the suggestion by the investigation team that Person P9 should be compelled to attend Court and that his evidence could be introduced into the evidential chain. DCS Cook explained that it had been agreed with the Crown Prosecution Service *‘that the police would seek to covertly record [Person P9] confirming the account he had earlier provided to police’*,<sup>1173</sup> and so [Person P9] had been duly visited on 18 February 2003.<sup>1174</sup> DCS Cook said that Person P9 *‘had been helpful to the investigation and had told the officer everything he knew. He said that when COOK met him after the murder he looked terrible. He was asked about the comments COOK had made to him and [Person P9] said he didn’t want to talk as the whole thing made him feel sick.’*<sup>1175</sup> DCS Cook reported that Person P9 had confirmed the claims he had previously made to the police.<sup>1176</sup>

430. DCS David Cook advised that the investigation team believed that *‘if [Person P9] were compelled to give [sic] attend court, he would give evidence of the claims made by COOK on the night of the murder’*.<sup>1177</sup>

431. In 1999, Person F11 and Person P9 had been investigated for conspiracy to murder James Cook and Person F11 had been convicted (see paragraph 442iv). DCS David Cook commented that *‘[a]lthough [Person P9] was never prosecuted with [Person F11] for Soliciting COOK’s murder in 1999, it is believed that he [Person P9] supplied the photograph of [James] COOK that was passed to the undercover officer. This could be used by others to discredit his motives for giving evidence against COOK.’*<sup>1178</sup>

432. DCS David Cook concluded that *‘[Person P9] is seen as a potential key witness in the case against [James] COOK. His impact would depend on whether the CPS [Crown Prosecution Service] and Treasury Counsel see a role for him in the chain of evidence.’*<sup>1179</sup>

### 14.5.3 Person F11

433. DCS David Cook provided a brief summary of the evidence which Person F11 had provided during his debriefing process after his arrest in 1999, and explained that Person F11 had subsequently said that this evidence was provided under duress, and that if compelled to attend court he would deny the content of the statement.<sup>1180</sup>

434. DCS David Cook noted that Person F11 was told that *‘although he will not be called to give evidence, the situation may one day arise where disclosure rules may dictate the service of his statement’*.<sup>1181</sup> DCS Cook acknowledged that the fact that Person F11 was being prosecuted for soliciting James Cook’s murder at the time he gave his evidence *‘would be used to discredit the content of his statement’*.<sup>1182</sup>

1173 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p123, 07 March 2003.

1174 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p123, 07 March 2003.

1175 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p123, 07 March 2003.

1176 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p123, 07 March 2003.

1177 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p123, 07 March 2003.

1178 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp123-124, 07 March 2003.

1179 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p127, 07 March 2003.

1180 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p124, 07 March 2003.

1181 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p124, 07 March 2003.

1182 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p124, 07 March 2003.

435. This material reveals that DCS David Cook accepted that both Person P9 and Person F11's evidence would probably be discredited, and that Kevin Lennon had previously been described by Counsel to the Crown Prosecution Service as lacking credibility.<sup>1183</sup>

## 14.6 The evidence against Jonathan Rees, James Cook and Glenn Vian

### 14.6.1 The evidence against Jonathan Rees

436. DCS David Cook summarised Jonathan Rees's possible motives for conspiring to murder Daniel Morgan,<sup>1184</sup> which he had explored in detail earlier in his report. He said the following:<sup>1185</sup>

- i. The evidence provided by Kevin Lennon to the previous investigations '*is seen as a key part of any case against REES*'.<sup>1186</sup>
- ii. Evidential statements<sup>1187</sup> and telephone data analysis '*indicate that an affair had commenced [between Margaret Harrison and Jonathan Rees] prior to [Daniel] MORGAN's murder*'.<sup>1188</sup>
- iii. The financial situation at Southern Investigations and the fact that Daniel Morgan was setting up another company to reduce the benefit which Jonathan Rees would receive from the bailiff side of the business (see Chapter 1, The Morgan One Investigation) '*taken together with the ill-feeling surrounding the Belmont Car Auction civil action and REES' hatred of MORGAN, all contribute to a strong motive for REES*'.<sup>1189</sup>

The evidence indicates that there had been ongoing dislike and distrust of Daniel Morgan by Jonathan Rees.

437. Jonathan Rees has informed the Panel, in November 2020, that his relationship with Daniel Morgan was '*healthy*', and although he '*did not like his conduct with women involved in matrimonial disputes*' and that they '*argued about things*', they were good business partners.

438. DCS David Cook also examined the inconsistencies in the account provided by Jonathan Rees saying that although they did not '*directly implicate him in the murder, they raise questions about his explanation of events*':<sup>1190</sup>

- i. He noted that Jonathan Rees had '*denied having a conversation that morning with Peter NEWBY about MORGAN upsetting a number of people the previous evening and that he didn't want to take MORGAN to another meeting planned for that night*'.<sup>1191</sup>

1183 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp120-124, 07 March 2003.

1184 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp124-125, 07 March 2003.

1185 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp21-22, pp24-30, p32, 07 March 2003.

1186 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p125, 07 March 2003.

1187 Witness statement of DC Duncan Hanrahan, MPS010357001, p1, 02 May 1989. Witness statement of a bookkeeper, MPS060325001, pp1-3, 08 March 1989.

1188 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p124, 07 March 2003.

1189 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp124-125, 07 March 2003.

1190 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p125, 07 March 2003.

1191 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p125, 07 March 2003.

- ii. He said that Jonathan Rees '*claimed that he couldn't recall the content of the telephone conversation with FILLERY at 11.05hrs [on the day of the murder]. Yet FILLERY informed him that he had been taken off his current murder investigation therefore leaving him available to investigate any new murder in the Catford area*'.<sup>1192</sup>
- iii. DCS Cook noted that Jonathan Rees had said that the meeting at the Golden Lion public house on 10 March 1987 was '*arranged in the morning between MORGAN, GOODRIDGE and REES.*' Paul Goodridge had told the Morgan One Investigation that he had been at the Southern Investigations office that morning. DCS Cook did not include this, although he noted that '*NEWBY and PEARCE claimed that GOODRIDGE was not at the offices that day*'.<sup>1193</sup>

DCS David Cook should have stated in his report that Paul Goodridge had told the Morgan One Investigation that he had been at the office that morning.

- iv. Jonathan Rees had told police that the purpose of the meeting with Paul Goodridge '*was to discuss a loan of £10,000 from a third party*'. Paul Goodridge had denied that any meeting had been arranged.
- v. Both Sharon Rees, then Jonathan Rees's wife, and Paul Goodridge had contradicted Jonathan Rees's account of telephone calls which Jonathan Rees had made after he left the Golden Lion public house on the evening of 10 March 1987.
- vi. Jonathan Rees had been heard during surveillance making significant comments to former DS Sidney Fillery and Glenn Vian about the murder.
- vii. At significant times during the Abelard One/Morgan Two Investigation there had been contact between Jonathan Rees and Glenn Vian, and Glenn Vian had visited Jonathan Rees when he was imprisoned in HMP Ford.
- viii. DCS Cook noted that Jonathan Rees had said that he only knew that Daniel Morgan had been meeting Margaret Harrison on the evening of 10 March 1987 when the police told him after Daniel Morgan's murder. In fact, Michael Goodridge had said that Jonathan Rees had told him before the murder occurred that Daniel Morgan was meeting Margaret Harrison.<sup>1194</sup>

439. Apart from the testimony given by Kevin Lennon, DCS David Cook did not describe any evidence to link Jonathan Rees to the murder of Daniel Morgan within the advice report which he provided to the Crown Prosecution Service.

<sup>1192</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p125, 07 March 2003.

<sup>1193</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p125, 07 March 2003.

<sup>1194</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp125-126, 07 March 2003.



### 14.6.2 The evidence against James Cook

440. DCS David Cook stated that James Cook had not previously featured as a suspect for the murder of Daniel Morgan.<sup>1195</sup> However, he noted the following:

- i. On 02 July 1999 Jonathan Rees had '*made concerted efforts to contact [James] COOK upon the publication of the article in The Telegraph newspaper that referred to the use of a getaway vehicle in the murder*'.<sup>1196</sup>
- ii. James Cook had met with Person D28 and Person D29 in order to arrange a false alibi after the arrest of Person P9. DCS Cook stated '*[t]his is seen as a significant event as [James] COOK was probably anticipating a visit from the investigation team*'.<sup>1197</sup>
- iii. Person P9 '*is seen as a potential key witness in the case against [James] COOK. His impact would depend on whether the CPS [Crown Prosecution Service] and Treasury Counsel see a role for him in the chain of evidence*'.<sup>1198</sup>
- iv. The evidence showed that James Cook had met Person D28 and Person D29 to arrange an alibi.<sup>1199</sup> The only other evidence against James Cook was provided by two witnesses. One of those witnesses, Person F11, had been convicted on 08 July 1999, and sentenced to a total of seven years' imprisonment for nine offences, including conspiracy to murder James Cook and supply of controlled drugs (see Chapter 4, Operation Nigeria/Two Bridges).<sup>1200</sup> Although Person F11 had signed his witness statement providing evidence against James Cook, he later stated it was made under duress.<sup>1201</sup> The other witness, Person P9, had also been implicated in the conspiracy to murder.<sup>1202</sup>

### 14.6.3 The evidence against Glenn Vian

441. DCS David Cook said the following:

- i. Glenn Vian had attended the hearing in the Belmont Car Auctions civil action on 05 March 1987 with Jonathan Rees, and they had subsequently told their legal executive that they were going to the Golden Lion public house for a drink.<sup>1203</sup>
- ii. During Operation Nigeria/Two Bridges, Glenn Vian had been '*party to a significant conversation with REES on 13th August 1999 when they discussed the disposal of the getaway vehicle*' and that '*[d]uring the recent covert investigation [Glenn] VIAN makes a number of significant comments about the Daniel MORGAN murder investigation*'.<sup>1204</sup>

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1195 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p126, 07 March 2003.

1196 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p127, 07 March 2003.

1197 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p127, 07 March 2003.

1198 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p127, 07 March 2003.

1199 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p127, 07 March 2003.

1200 Police National Computer record for Person F11, MPS005091001, 30 June 2008.

1201 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p68, 07 March 2003.

1202 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p123, 07 March 2003.

1203 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p127, 7 March 2003. See also witness statement, IPC000828001, 05 May 1987.

1204 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, pp127-128, 07 March 2003.

- iii. *'[O]n 17th July [Glenn] VIAN and his wife visit REES at HMP FORD. This is seen as significant as there appears to be no other visits within at least the previous twelve months.'*<sup>1205</sup>
- iv. There was probe material from 19 October 2002 in which *'Glen [sic] and Gary [sic] VIAN discuss the use of a firearm on a person unknown and there appears to be the sound of the breach movement and dry firing of a firearm'*.<sup>1206</sup>

442. No evidence of Glenn Vian's involvement in Daniel Morgan's murder is contained in the relevant section of DCS David Cook's report. Although Person F11 had named Glenn Vian as the murderer in January 1999, Person F11 had subsequently said that *'he would deny the content of the statement claiming that he made it under duress'*.<sup>1207</sup> DCS Cook referred to this element of Person F11's evidence in his analysis of Person F11, but quite correctly did not attempt to use it against Glenn Vian.

## 14.7 The evidence against former DS Sidney Fillery

443. DCS David Cook recorded the following:

- i. *'The MORGAN family believes that FILLERY was involved in the planning and cover up of the murder and it has also been suggested that Freemasonry may have played a part.'*<sup>1208</sup>
- ii. DS Sidney Fillery had been involved in the Belmont Car Auctions matter and had *'had some form of argument with MORGAN in the Golden Lion pub on Monday 9th March'*.<sup>1209</sup>
- iii. On 10 March 1987, Jonathan Rees had contacted DS Sidney Fillery and *'they discussed that FILLERY and his team had been taken off their current murder investigation'*.<sup>1210</sup>
- iv. DS Fillery *'took a bland background statement from REES and attended the offices of Southern Investigations where it is alleged that FILLERY took possession of the Belmont Car Auction file'*.<sup>1211</sup>
- v. Alastair Morgan had given evidence that, on 12 March 1987, he had attended the police station and had spoken with DS Fillery and told him that he believed that the death of his brother may have had something to do with the Belmont Car Auction affair, and that DS Fillery had dismissed this assertion.<sup>1212</sup>

<sup>1205</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p128, 07 March 2003.

<sup>1206</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p128, 07 March 2003.

<sup>1207</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p125, 07 March 2003.

<sup>1208</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p128, 07 March 2003.

<sup>1209</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p128, 07 March 2003.

<sup>1210</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p128, 07 March 2003.

<sup>1211</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p129, 07 March 2003.

<sup>1212</sup> Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p129, 07 March 2003.

- vi. DCS Cook also commented that DS Fillery had been medically retired from the police in March 1988 and had joined Southern Investigations in February 1989.<sup>1213</sup>
- vii. On 04 October 2002, 'Glen [sic] VIAN talked about FILLERY and "walkie-talkies" whilst discussing the arrest of a 46 year old man for the murder'.<sup>1214</sup> DCS Cook said '[i]t is not known to what he was referring'.<sup>1215</sup> DCS Cook had stated earlier in his report that '[i]n light of this it is not possible to preclude FILLERY from the planning phase of the murder'.<sup>1216</sup>

## 14.8 DCS David Cook's conclusions on the evidence gathered during all the investigations

444. DCS David Cook's advice file concluded with the following general statements regarding the key suspects:

- i. *'In respect of Sidney FILLERY, there is no direct evidence to suggest that he was involved in the murder, however, he cannot be excluded from the planning phase or frustrating the initial investigation.*
- ii. *'The spectre of Freemasonry is well immersed in the circumstances surrounding the murder and attempts to frustrate the investigation however, there is no real, if any evidence to substantiate this.*
- iii. *'In summary, the investigation team are of the firm belief that there is sufficient evidence to charge William Jonathan REES, Glen [sic] VIAN and James COOK with a Conspiracy to Murder Daniel MORGAN.'*<sup>1217</sup>

445. DCS David Cook also sought advice about whether James Cook, Person D28 and Person D29 should be charged with 'Conspiracy to Pervert the Course of Justice in respect of the false alibi for the night of the murder', and whether former DS Sidney Fillery should be charged with 'Misconduct in a Public Office, namely failing to deal appropriately with the Belmont Car Auction file'.<sup>1218</sup>

446. Finally, DCS David Cook sought advice on whether charges should be laid against former DS Sidney Fillery and Jonathan Rees for ancillary offences which had been identified but which were unconnected with the murder of Daniel Morgan.

447. None of the information that was collected after DCS David Cook's advice file was sent to the Crown Prosecution Service on 07 March 2003 would have materially affected his recommendations to the Crown Prosecution Service.

1213 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p129, 07 March 2003.

1214 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p129, 07 March 2003.

1215 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p129, 07 March 2003.

1216 Advice File R v Jonathan REES, Glenn Vian and James Cook, MPS060058001, p93, 07 March 2003.

1217 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p130, 07 March 2003.

1218 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p130, 07 March 2003.

448. The issue of police corruption was not part of the 2000 Murder Review Report's Terms of Reference. The remit of the Abelard One/Morgan Two Investigation was limited to dealing with the recommendations contained in the 2000 Murder Review Report unless permission was sought to pursue further lines of enquiry. DCS David Cook did not further investigate matters relating to alleged police corruption as part of the motive for the murder of Daniel Morgan, other than in his examination of the activities of former DS Sidney Fillery. Focusing on the recommendations of the 2000 Murder Review Report, he investigated those whom he considered to be key suspects for the murder.

449. DCS David Cook should have given consideration to the possible role of police corruption other than the alleged link to the death of DC Alan Holmes as a motive for Daniel Morgan's murder, and should have sought the advice of the investigation's Gold Group about pursuing this line of enquiry.

## 15 Charging decision of the Crown Prosecution Service

### 15.1 Code for Crown Prosecutors

450. DCS David Cook's advice file was submitted to the Crown Prosecution Service on 07 March 2003. Prosecutors and investigators work closely together, but the final decision as to whether a suspect should be prosecuted rests with the Crown Prosecution Service.

451. Prosecutors must comply with the 'Code for Crown Prosecutors'.<sup>1219</sup> When deciding whether to prosecute, the Code requires that the Prosecutor consider two questions. Firstly, is there enough evidence to provide a realistic prospect of conviction against the defendant? Secondly, if so, is it in the public interest for the Crown Prosecution Service to bring the case to court? If both conditions are met, then a prosecution can take place.

### 15.2 Counsel's 'preliminary view'

452. On receipt of the file from DCS David Cook, the Crown Prosecution Service requested that the criminal barristers advising them, Orlando Pownall QC and Jonathan Rees, Barrister, hold a meeting with the Morgan Two Investigation team, which took place on Monday 28 April 2003 and lasted over two hours. The note of the meeting recorded that:

*'Orlando [Pownall] was of the few [sic] that we had some of the essential ingredients for a prosecution for murder, namely motive and opportunity. However he was of the few [sic] that although it came tantalisingly close, we did not have enough to charge the various defendants.'*

*'The police did not agree with his assessment, certainly in regards to Jimmy COOK and made persuasive and forceful arguments in favour of charging him.'*

<sup>1219</sup> The Code for Crown Prosecutors is issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985. In more serious or complex cases, prosecutors decide whether a person should be charged with a criminal offence and, if so, what that offence should be.

*'There followed lengthy discussion regarding the merits of the case so far. Orlando [Pownall] and Jonathan [Rees, Barrister] said that they would like to go away from this meeting and have the opportunity to digest and consider some of the comments made by the police. They also asked that a number of queries be cleared up:*

*'[Kevin] LENNON to be visited again regarding the men he is reluctant to name regarding an alleged plan to kill MORGAN.*

*'Papers to be gone through regarding comments MORGAN is supposed to have made to the bar maid in the Golden Lion on the evening of 9th March 1987.*

*'Orlando [Pownall] and Jonathan [Rees, Barrister] said they would come back to the police in 4 to 4 [sic] weeks with a written advice. They did not state conclusively that it would be advising against prosecution, but I think it I [sic] likely that this will indeed be the case.*

*'Orlando [Pownall] said that he and Jonathan [Rees, Barrister] would be happy if required to meet the family of MORGAN to explain the reasons for their decision if it should be that there will be no prosecution.*

*'Orlando [Pownall] said that if there was not going to be a prosecution regarding the murder there would be little point in prosecuting James COOK for perverting the course of justice for the fabrication of an alibi with [Person D28 and Person D29]. Orlando [Pownall] said that we would have to disclose the [Person P9] intelligence and in any event it was unlikely that a jury would convict under the circumstances.'<sup>1220</sup>*

453. It was agreed that Counsel would set out their final advice in writing.

454. Following a meeting between the police and members of the family of Daniel Morgan on 01 May 2003 (see Chapter 12, The Treatment of the Family), the Crown Prosecution Service was asked for a date by which a decision would be made, and when Counsel would provide their final advice. The Crown Prosecution Service replied that the advice and a decision would be available in the week commencing 26 May 2003.

455. On 07 May 2003, a meeting of the Gold Group for the Abelard One/Morgan Two Investigation was held, at which DCS David Cook outlined the meeting held with the Crown Prosecution Service and Prosecution Counsel on 28 April 2003.<sup>1221</sup> He advised those present that Counsel had stated that although there was a good *prima facie* case against Jonathan Rees, they were not able to 'evidence' roles played by the suspects, and for this reason they did not believe there was a realistic prospect of conviction. The minutes of the meeting on 07 May 2003 recorded that '[s]trong representations were made and Counsel agreed to reconsider its view and report back to the CPS [Crown Prosecution Service] within 5 weeks'.<sup>1222</sup>

456. Following his submission of the advice file to the Crown Prosecution Service in March 2003, DCS David Cook was seconded to HM Customs and Excise. T/D/Supt David Zinzan had also left the investigation following the closure of the covert investigation.<sup>1223</sup>

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<sup>1220</sup> Minute of Operation Abelard conference held on 28 April 2003, CLA000245001, p1, 29 April 2003.

<sup>1221</sup> Minutes of Gold Group meeting, MPS061654001, p2, 07 May 2003.

<sup>1222</sup> Minutes of Gold Group meeting, MPS061654001, p2, 07 May 2003.

<sup>1223</sup> Panel interview with former T/D/Supt David Zinzan, pp6-7, 23 May 2018.



457. No final Crown Prosecution Service decision had been received by the end of the week commencing 26 May 2003. Repeated enquiries were made by the Abelard One/Morgan Two Investigation of the Crown Prosecution Service to find out when the advice would be available and when the decision would be made, but no decision was provided.

### 15.3 Counsel's response

458. On 08 August 2003 (five months after DCS David Cook's file was submitted), written advice was received from Orlando Pownall QC and Jonathan Rees, Barrister,<sup>1224,1225</sup> confirming their earlier oral recommendation that there was insufficient evidence to prosecute Jonathan Rees, Glenn Vian, James Cook or any other person, for murder or ancillary offences.<sup>1226</sup>

459. The advice paper began by examining the evidence concerning the immediate circumstances of the attack upon Daniel Morgan, before examining the evidence implicating the three murder suspects.<sup>1227</sup> Regarding the physical attack, Counsel commenced by indicating that the *'pathological evidence paints a clear picture of a surprise attack from behind by one individual using an axe'*, and that there was *'no evidence that more than one assailant was involved'*.<sup>1228</sup>

460. The advice noted that, as part of his investigation, DCS Alan Wheeler had conducted experiments in the car park of the Golden Lion public house in order to establish whether it was possible for an attacker to approach someone standing where Daniel Morgan's body was found without being noticed. DCS Wheeler had concluded that this was *'very unlikely'*. It was suggested that Daniel Morgan, therefore, may have known his assailant (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). Counsel noted that this conclusion would depend on a *'range of variables'*, including, for example, how anxious Daniel Morgan (*'who had been drinking'*) would have been to identify anyone he noticed approaching him. Counsel stated that, in their opinion, the work carried out by DCS Wheeler was insufficient to exclude the possibility that Daniel Morgan did not know his attacker.<sup>1229</sup>

461. In considering motives for the attack, Counsel stated that there was no evidence to suggest that Daniel Morgan was killed as a result of any particular event, such as an argument or confrontation, which occurred sometime before or on the day of his death.<sup>1230</sup> There were a number of factors, additionally, which suggested that *'the motive for the attack was unlikely to be robbery'*: notably, the nature and violence of the attack shown by the pathological evidence, that an axe was an unlikely instrument to be wielded by a robber, that over £1,000 in cash remained on the person of Daniel Morgan, the evidence that Daniel Morgan was still wearing his Rolex after the attack, and that a Parker pen and a note written with the pen were the only other items that appeared to have gone missing.<sup>1231,1232</sup>

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1224 Message M193, MPS060053001, pp1-2, 08 August 2003.

1225 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp1-57, undated.

1226 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp34, 42, 50 and 54-56, undated.

1227 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp1-57, undated.

1228 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p7, undated.

1229 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p8, undated.

1230 Counsel Advice by Orlando Pownall QC and Jonathan Rees (barrister), MPS062209001, pp6-7, undated.

1231 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp8-9, undated.

1232 A Parker pen was subsequently found in 2016 when a bag of items, including the pen, was delivered to DS Gary Dalby (see Chapter 1, Morgan One Investigation).

462. Concluding the consideration of the circumstances of the attack, the advice stated that:

*'[t]aken as a whole, the bare facts surrounding the killing of Daniel Morgan indicate that he was attacked from behind by a single assailant wielding an axe. It is probable, though not certain, that this was a planned attack by or on behalf of someone who knew that Morgan was at the Golden Lion that evening and wanted to kill him.'*<sup>1233</sup>

463. Counsel then considered the evidence against each of the suspects.<sup>1234</sup>

### 15.3.1 Jonathan Rees

464. Although Counsel stated that motive was not conclusive of guilt and that to prove guilt there needed to be evidence from other sources, Counsel noted that there was a significant body of evidence which suggested that Jonathan Rees may have had one or more reasons for wanting to kill Daniel Morgan. The more plausible of these included his hatred of Daniel Morgan, his anxiety that Daniel Morgan was going to enter into a business partnership with others, and a desire to get rid of Daniel Morgan to allow former DS Sidney Fillery to become Jonathan Rees's business partner.<sup>1235</sup>

465. Other possible motives for Jonathan Rees wanting to kill Daniel Morgan considered by Counsel were: Jonathan Rees's jealousy of Daniel Morgan's continued association with Margaret Harrison,<sup>1236</sup> and a wish to protect police friends from losing their jobs as a result of senior officers finding out about their alleged 'moonlighting'<sup>1237</sup> for work provided through Southern Investigations.<sup>1238</sup>

466. However, as the advice file noted, these two final theories were undermined by the known evidence: firstly, the absence of admissible evidence that Daniel Morgan and Margaret Harrison were still having a sexual relationship at the time of Daniel Morgan's death; and secondly, that it was not apparent how killing Daniel Morgan would have solved the problem of the threat that officers might lose their jobs, since it was far more likely that Daniel Morgan's murder would lead to additional scrutiny of officers 'moonlighting' for Southern Investigations.<sup>1239</sup>

467. Counsel also stated that less plausible motives had been suggested, such as the fact that Daniel Morgan seemed to have been drawing more than his entitlement from the Southern Investigation bank account. However, it was noted that there was no credible evidence that Jonathan Rees was aware of this, and, even if he was, murdering his partner would not have resolved the situation.<sup>1240</sup>

468. While the evidence tended to show that Jonathan Rees had a motive for killing Daniel Morgan, it was noted by Counsel that he was far from the only person to do so.<sup>1241</sup> The advice file stated:

*'[t]he evidence showing that other people may have had a motive for harming Morgan has the effect of lessening the significance of the evidence of motive in respect of Rees.'*

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1233 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p10, undated.

1234 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp10-50, undated.

1235 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp10-11, undated.

1236 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p11, undated.

1237 Accepting private employment outside of their traditional employment within the police.

1238 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p12, undated.

1239 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp11-12, undated.

1240 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp12-13, undated.

1241 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp13-14, undated.

*Obviously, there is a clear difference between a case where the evidence establishes that only one person has a clear motive for killing someone, and a case where a number of people do. It is, in our view, not insignificant that if Rees did plot Morgan's demise, he did so in a manner that ensured he was with Morgan a short time before he died, thereby attracting suspicion.*<sup>1242</sup>

469. Counsel considered whether the meeting at the Golden Lion public house was a 'bogus meeting' and whether Jonathan Rees had asked Daniel Morgan to meet him at the Golden Lion public house under false pretences. Counsel noted that Paul Goodridge said in his witness statement of 12 March 1987 that he had told Jonathan Rees that he might be able to help him raise money through friends and that he had been in the offices of Southern Investigations on the morning of 10 March 1987 with Jonathan Rees and Daniel Morgan. While Paul Goodridge could not remember the meeting at the Golden Lion public house being arranged, he also could not 'exclude the possibility that such a conversation may have taken place'.<sup>1243,1244,1245</sup> Paul Goodridge also recalled that Daniel Morgan's final remark to him was that he would see him later and that the first thing Jonathan Rees said to him at the Beulah Spa public house was: 'Where the fuck were you?' This, Counsel said, would suggest that Jonathan Rees expected Paul Goodridge to be at the Golden Lion public house on 10 March 1987.<sup>1246,1247</sup> Counsel concluded that it would be very difficult for the Prosecution to establish that the meeting was 'bogus' and that Jonathan Rees was setting Daniel Morgan up to have him killed.<sup>1248</sup>

470. One alternative not discussed in their advice, that Jonathan Rees may well have concluded that the only way for him to ensure that Daniel Morgan was at the appropriate place at the right time for the murder to take place, was to be there himself. Attracting suspicion to himself would be the unavoidable consequence but may have been seen as a risk worth taking.

471. It was noted that the evidence of Kevin Lennon implicated Jonathan Rees, in that, prior to the murder, Jonathan Rees was alleged to have told Kevin Lennon (on multiple occasions)<sup>1249</sup> that he wanted Daniel Morgan dead and was prepared to act on it.<sup>1250</sup> Counsel stated, 'in our view, there are a number of good reasons for suspecting that a jury would attach little or no weight to his testimony, despite the fact that it would seem he has little to gain from helping police at this stage'.<sup>1251</sup> These reasons were summarised as follows:

- i. At the time of making his second statement Kevin Lennon 'would have been anxious to assist the police in order to mitigate the length of the prison sentence he faced for

1242 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p14, undated.

1243 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp18-19, undated.

1244 Witness statement of Paul Goodridge, MPS021806001, pp3-4, 12 March 1987.

1245 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p19, undated.

1246 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p20, undated.

1247 Witness statement of Paul Goodridge, MPS021806001, p5, 12 March 1987.

1248 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp20-21, undated.

1249 Witness statement of Kevin Lennon, MPS010528001, pp11-22, 15 September 1987.

1250 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p15, undated.

1251 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p15, undated.

*offences of dishonesty*'.<sup>1252</sup> However, his account was corroborated in some respects since former DS Sidney Fillery was medically discharged and went to work with Jonathan Rees.<sup>1253</sup>

- ii. It was '*incongruous*' that Jonathan Rees would confide in the company accountant his plans to murder his business partner.<sup>1254</sup>
- iii. There was no evidence to support the contention that officers at Catford had been instructed by Jonathan Rees to kill Daniel Morgan.<sup>1255</sup>
- iv. There was no evidence to support the claim that Jonathan Rees had arranged for Daniel Morgan to be breathalysed by Norbury police.<sup>1256</sup>
- v. Kevin Lennon had claimed that Jonathan Rees told two other people of his desire to have Daniel Morgan killed: Michael Goodridge and Sharon Rees. Michael Goodridge denied that any such conversation took place, and Sharon Rees had never confirmed that such a conversation took place.<sup>1257</sup>
- vi. Kevin Lennon claimed that, prior to the murder, he had told former DCI Laurence Bucknole that Jonathan Rees was arranging to kill Daniel Morgan. Counsel considered this claim to be '*wholly unconvincing*'.<sup>1258</sup>
- vii. In a later account, Kevin Lennon had stated that, on behalf of Jonathan Rees, he had approached two men to arrange the killing of Daniel Morgan. Kevin Lennon claimed that this was to cheat Jonathan Rees out of money, instead of being a proper attempt to recruit hitmen. He further stated that DS Fillery was named by Jonathan Rees as the officer from Catford who was arranging to kill Daniel Morgan.<sup>1259</sup> Kevin Lennon had not mentioned either of these pieces of information before and claimed that he had told the first investigation about DS Fillery. Counsel concurred with the Hampshire officers' view that these additions, '*undermined rather than assisted Lennon's credibility [...] particularly as Lennon still refuses to name the two men he allegedly approached to conduct this scam*'.<sup>1260</sup>
- viii. Kevin Lennon was a '*convicted fraudster and cheat*'.<sup>1261</sup>
- ix. Although Kevin Lennon may have no longer had a motive for lying because, at the time of Counsels' report, he was not facing any criminal charges, '*one cannot ignore the fact that his evidence has been available since 1987 and yet it has not been thought sufficient to justify a prosecution*'.<sup>1262</sup>

472. Counsel considered the 1989 opinion of Jeremy Gompertz QC and others, on the same evidence, which had been given to the Hampshire/Police Complaints Authority Investigation in which it had been decided that there was insufficient evidence to prosecute Jonathan Rees and

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1252 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p15, undated.

1253 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p15, undated.

1254 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p15, undated.

1255 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p15, undated.

1256 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p15, undated.

1257 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p16, undated.

1258 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p16, undated.

1259 Report R4C of DCS Alan Wheeler, MPS022884001, 01 September 1988.

1260 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp16-17, undated.

1261 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p17, undated.

1262 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p17, undated.

concluded that they (Orlando Pownall QC and Jonathan Rees, Barrister) would have reached the same decision in early 1989.<sup>1263</sup> They went on to say that ‘[t]he passage of over 14 years since that advice was given serves significantly to dilute the impact of the evidence that was then available’.<sup>1264</sup>

473. Regarding the probe evidence, the advice stated that ‘[w]hen deciding upon the weight that can be attached to probe evidence in general, it is important to bear in mind the following factors’:<sup>1265</sup>

- i. *‘The evidential significance of the relatively small number of relevant excerpts needs to be assessed against the background of many of [sic] hours of recording.’*
- ii. *‘In many instances, the quality of the recorded material is poor and it is difficult to place any great reliance on passages where the context is unclear or where phrases are only decipherable in part.’*
- iii. *‘It is unsurprising that a press article or television piece about the killing would cause consternation amongst those who had been arrested or charged with the murder in the past and their associates.’*
- iv. *‘It is unlikely that, after all this time, those involved in the killing are the only ones to have knowledge about it. In the intervening period there would have inevitably been much speculation and rumour about who was responsible, some of which might be well founded and some less so. If it is accepted that [Person F11] might be telling the truth about [James] Cook’s confession, it provides an illustration of how innocent people might acquire knowledge through admissions made to them or hearsay. Therefore, care is required to distinguish things said, which might indicate knowledge of the crime, from things said which amount to an unambiguous admission of participation.’*
- v. *‘It must also be borne in mind that a suspect might be concerned about being implicated in the offence by, for example, a connection with a getaway car, even though he played no part in the killing itself.’*
- vi. *‘In the sort of society in which REES and the other suspects mix, it would not be unnatural for them to be anxious that someone may provide false information in the hope of picking up a reward or in pursuance of a grudge.’*
- vii. *‘A suspect who has previously been arrested might be expected to comment on the evidence against himself, irrespective of whether he was guilty or not.’<sup>1266</sup>*

474. Counsel considered each excerpt from the transcripts which might be relevant,<sup>1267</sup> and concluded that:

*‘the transcripts of the probe evidence contain little in the way of further significant evidence against Rees, despite the fact that he was clearly not aware of the probe. There is nothing approaching an admission that he played a part in arranging or*

<sup>1263</sup> Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp24-25, undated.

<sup>1264</sup> Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p25, undated.

<sup>1265</sup> Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p26, undated.

<sup>1266</sup> Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp26-27, undated.

<sup>1267</sup> Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp27-34, undated.



*carrying out the killing. At best they show that Rees had knowledge of a connection between his close associate James Cook and a getaway car, although not the sort of detailed knowledge one might expect from someone who had supposedly commissioned the killing and was with the deceased minutes before he died.*<sup>1268</sup>

475. Moreover, Counsel noted that this evidence had been available since 1999, and that the product of the more recent surveillance had not increased the body of evidence against Jonathan Rees.<sup>1269</sup>

476. Counsel concluded their consideration of the evidence against Jonathan Rees by stating that:

*'[f]or the reasons described above, it is our view that there is insufficient evidence to provide a realistic prospect of conviction in the case of Rees. As indicated above, the strength of the case against Rees may, in part, depend upon the strength of the case against [James] Cook and Glen [sic] Vian and vice versa. As set out below, it is our view that there is insufficient evidence to prosecute either [James] Cook or Glen [sic] Vian.'*<sup>1270</sup>

### 15.3.2 Glenn Vian

477. Counsel noted that the main evidence against Glenn Vian was contained within the probe recordings, and that the same considerations regarding evidence gained through probe recordings being used against Jonathan Rees applied to Glenn Vian also.<sup>1271,1272</sup> Counsel concluded that the evidence gathered *'falls short of establishing to the required minimum threshold that he participated in the killing of Daniel Morgan'*.<sup>1273</sup>

### 15.3.3 James Cook

478. Counsel considered the evidence of Person F11, and in particular the allegation he had made on 22 January 1999 that in 1989/90 James Cook had confessed to him that Jonathan Rees had paid for the murder, Glenn Vian had murdered Daniel Morgan with the axe, and that he, James Cook, was the getaway driver. Person F11 had also said that James Cook had passed the getaway car to Person P9 who, for a short time, had looked after it.<sup>1274</sup>

479. Counsel noted that later, Person F11 claimed he had been placed under duress by police to make these statements, and furthermore that he was subsequently convicted of soliciting the murder of James Cook and was sentenced to seven years' imprisonment. Counsel stated that, for obvious reasons, the Prosecution would not seek to rely on the evidence of Person F11 against James Cook.<sup>1275</sup> Counsel also noted that it was believed that Person P9 had been involved in Person F11's soliciting of James Cook's murder<sup>1276</sup> and concluded that *'[a] jury would not have the evidence of [Person P9] and [Person F11] before them'*.<sup>1277</sup> This was because Person P9 said this information was off the record and did not formalise the evidence by signing

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1268 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p33, undated.

1269 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p34, undated.

1270 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p34, undated.

1271 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p35, undated.

1272 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp26-27, undated.

1273 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p42, undated.

1274 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp42-43, undated.

1275 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p43, undated.

1276 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p49, undated.

1277 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p50, undated.

the police officers' notes or giving a witness statement, and Person F11 did sign his witness statement concerning the murder, but later said it was made under duress and that he wanted it 'retracted legally'.<sup>1278</sup> Neither was prepared to give evidence in Court.

480. With regard to the probe recordings, Counsel noted that while there was material indicating that James Cook was concerned about the re-opening of the investigation, it did not reveal why, and that in the context of the police officer's call,<sup>1279</sup> James Cook's response seemed to indicate that he was denying involvement while unaware that he was being taped.<sup>1280</sup> In relation to another excerpt, Counsel observed that James Cook referred to being fitted-up, or something being planted on him, which Counsel said was believed by the police to indicate that '[James] Cook was concerned that [Person P9] might try to implicate him because an earlier conspiracy between [Person F11] and [Person P9] to murder him had failed'.<sup>1281</sup>

481. Referring to the attempts by James Cook to manufacture an alibi for the night of 10 March 1987, Counsel stated '*that there is no available evidence which proves what part he played in the events of the evening of 10th March 1987. It might be the case, for example, that [James] Cook wanted to conceal the fact that he had assisted in disposing of the getaway car, notwithstanding that he may have had no knowledge of the plan to kill Morgan.*'<sup>1282</sup>

482. Counsel summarised the position as follows:

*'In our view, while the probe evidence suggests that [James] Cook might have been connected in some way with the events surrounding the killing of Daniel Morgan, it does not establish his complicity in the killing itself.'*<sup>1283</sup>

483. Counsel then turned their attention to the other charges below.<sup>1284</sup>

#### **15.3.4 Perverting the course of justice (James Cook, Person D28 and Person D29)**

484. Counsel noted that while there was *prima facie* evidence of offences being committed, there were a number of aspects which needed to be considered when deciding whether charges should be brought:<sup>1285</sup>

- i. In relation to the false alibi provided by Person D28 and Person D29, Counsel noted that '*there may well be an argument to exclude this aspect of the evidence under section 78 PACE [Police and Criminal Evidence Act 1984] on the basis that there was an element of entrapment involved when asking [Person D28 and Person D29] to provide information about [James] Cook*'.<sup>1286</sup> This was because when the police approached Person D28 and Person D29 for evidence about James Cook, the police knew of their apparent involvement in preparing a false alibi but they were not warned that they were suspects and the police did not caution them before interview.<sup>1287</sup>

1278 Letter from the Metropolitan Police to the Governor at HM. Prison Hollesley Bay re permission to interview Person F11 enclosing minutes of meeting at HMP Codrington with Person F11, MPS049613001, p6, 20 September 2001.

1279 Audio summary of recorded telephone conversation between the police officer and James COOK (1821–1958), MPS058784001, pp1-6, 01 July 2002.

1280 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp44-45, undated.

1281 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p46, undated.

1282 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp45-46, undated.

1283 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p47, undated.

1284 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp51-56, undated.

1285 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p52, undated.

1286 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p52, undated.

1287 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p51, undated.

- ii. *‘Experience shows that a jury is less likely to convict in cases where the prosecution are not in a position to prove that the false alibi was manufactured in order to conceal an offender’s participation in a specific offence.’*<sup>1288</sup>
- iii. *‘Jean Wisden was charged with perverting the course of justice, but this charge was discontinued when the charges of murder against Rees and Goodridge were discontinued. It could be argued that, for the sake of consistency, a similar approach should be adopted.’*<sup>1289</sup>
- iv. *‘[Person D28 and Person D29] are both elderly. [Person D29] suffers from poor health and, no doubt, relies upon [Person D28].’*<sup>1290</sup>
- v. *‘It may well be that a jury would be reluctant to convict individuals who have contrived an alibi in circumstances where the whole police operation was based upon a contrivance.’* (On 26 June 2002,<sup>1291</sup> DCS David Cook, as part of the *Crimewatch* broadcast, had pretended to be in receipt of information which *‘put a smile on his face’*.<sup>1292</sup> On 01 July 2002,<sup>1293</sup> a police officer had telephoned James Cook and pretended to be someone who had information which she was prepared to give to police.)<sup>1294</sup>
- vi. *‘It may be that there are sound operational reasons for not jeopardising the ongoing investigation into the killing by pursuing charges which might result in disclosure of hitherto sensitive material.’*<sup>1295</sup>

485. In conclusion, Counsel stated that:

*‘[t]aking an overall view, we doubt whether there necessarily exists a realistic prospect of conviction of [Person D28 and Person D29] and [James] Cook on a charge of conspiracy to pervert the course of justice.’*<sup>1296</sup>

### **15.3.5 Firearms Offences (Glenn Vian, Garry Vian)**

486. Counsel considered the likelihood of a successful prosecution in relation to firearms offences allegedly committed by Glenn and Garry Vian. Counsel stated that no weapon had been recovered and the only evidence of an offence being committed under the Firearms Act 1968 was contained in the probe recordings. Therefore, before any further consideration was given to the possibility of charging Glenn and Garry Vian, Counsel recommended that the probe recordings be listened to by a firearms expert and a report produced.<sup>1297</sup> Such a report was not produced until April 2008, during the Abelard Two Investigation.<sup>1298</sup>

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1288 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p52, undated.

1289 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p53, undated.

1290 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p53, undated.

1291 Recording of BBC’s *Crimewatch* screened on 26 June 2002, viewed by the Panel.

1292 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p53, undated.

1293 Audio summary of recorded telephone conversation between the police officer and James Cook (1821–1958), MPS058784001, pp1-6, 01 July 2002.

1294 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p53, undated.

1295 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p53, undated.

1296 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p54, undated.

1297 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p54, undated.

1298 Witness statement of a firearms expert, MPS003172001, 16 April 2008.

487. In conclusion, Counsel stated, '[o]n the basis of the transcripts before us, it seems that it will be difficult to establish that one or both of the brothers had an ulterior intent to use the firearms themselves'.<sup>1299</sup>

### 15.3.6 Misconduct in public office (former DS Sidney Fillery)

488. Regarding the assertion of misconduct concerning the Belmont Car Auctions file, Counsel stated that, as a relatively minor offence occurring 16 years previously, it would not be in the interests of justice to charge former DS Sidney Fillery with this offence, especially when the main evidence upon which a prosecution would rely had been available for most of those 16 years, without a charge being brought previously.<sup>1300</sup> Counsel added that, '[i]n any event, the evidence is far from compelling [that the file was ever in the possession of DS Fillery]'.<sup>1301</sup>

### 15.3.7 Offences unrelated to Daniel Morgan's murder (former DS Sidney Fillery)

489. Counsel noted that former DS Sidney Fillery had recently been charged in respect of these unrelated offences.<sup>1302</sup> He was sentenced by Bow Street Magistrates' Court on 24 October 2003 to a Community Rehabilitation Order of 36 months.<sup>1303,1304</sup>

## 15.4 Counsel's consideration of the effect of their decision on Daniel Morgan's family

490. Counsel were conscious of the effect that the advice, if accepted by the prosecuting authorities, might have upon those closest to the case:

*'If the CPS [Crown Prosecution Service] agree with our advice and the decision is taken not to prosecute, this will create enormous disappointment in the family of the deceased who will have hoped that the reinvestigation would produce significant results. We have no doubt that those involved have done all they reasonably could to secure admissible evidence in proof of the involvement of Rees, [James] Cook and Glen [sic] Vian. Unfortunately, their best endeavours have not produced sufficient evidence. In providing our advice we have strenuously resisted the temptation of concluding that, whatever the state of the evidence, it should be left to a jury to decide. We are bound by the requirement that for a prosecution to take place, there must, at the very least, be a realistic prospect of conviction. For the reasons given above we are unable to conclude that such a realistic prospect exists.'*<sup>1305</sup>

491. The advice paper concluded with a comment regarding the delay in production:

*'We apologise for the delay in preparing this advice. We were not aware that there might be time constraints until we were recently informed of the application for judicial review of the decision not to provide a copy of the Hampshire Report to the family.'*<sup>1306</sup>

The application for judicial review is discussed in more detail in Chapter 12, The Treatment of the Family.

1299 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p55, undated.

1300 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p55, undated.

1301 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p56, undated.

1302 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p56, undated.

1303 Police National Computer record, MPS071822001, pp1-6, 08 May 2006.

1304 Letter from the National Probation Service to the solicitor for DS Sidney Fillery, MPS104122001, pp22-23, 18 June 2008.

1305 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p57, undated.

1306 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p56, undated.

## The Report of the Daniel Morgan Independent Panel

492. On 12 August 2003, at a Gold Group meeting, DCS David Cook advised those present of the recommendation from Orlando Pownall QC, and that the decision not to prosecute was expected to be officially confirmed by the Crown Prosecution Service early the following week.<sup>1307</sup>

493. DCS David Cook said that, while he accepted the decision, he did not agree with it nor the rationale provided.<sup>1308</sup>

494. It was agreed at the meeting that, when the family were informed of the Crown Prosecution Service's final decision, they would be offered the opportunity of a meeting with Counsel in order that they might have the decision-making explained.<sup>1309</sup>

495. On 02 September 2003, Colin Gibbs from the Crown Prosecution Service wrote to DCS David Cook, T/D/Supt David Zinzan and A/DCI Neil Hibberd stating that, following receipt of the advice file from Counsel, the Crown Prosecution Service had considered the matter and agreed with Counsel that there was insufficient evidence to provide a realistic prospect of a conviction.<sup>1310</sup>

496. The family of Daniel Morgan received an offer to meet with the Crown Prosecution Service in order to discuss the reasons for the decision. However, they declined the offer at that time since they wanted to obtain full access to the advice paper.<sup>1311</sup> The family subsequently met with the Crown Prosecution Service on two occasions.

497. Although the decision not to prosecute anyone for the murder of Daniel Morgan disappointed the family of Daniel Morgan, it was realistic in the circumstances. Counsel's duty was to analyse the additional evidence that had been obtained since the case was last considered and point out any weaknesses contained within it. There were overwhelming weaknesses. While the police had thought firm, incriminating evidence might arise from the use of the probes (both in 1999 and 2002), no such evidence was secured against the main suspects.

498. Counsel correctly highlighted the fact that no jury would have the benefit of the information provided to the police by Person P9 and Person F11, information which had enabled the police to place the evidence gathered through use of the probes in an apparently incriminating context. Furthermore, both potential witnesses had discredited themselves since Person F11 had been convicted of the conspiracy to murder James Cook and Person P9 had been implicated in the conspiracy to murder.

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1307 Minutes of Gold Group meeting, MPS071568001, p1, 12 August 2003.

1308 Minutes of Gold Group meeting, MPS071568001, p1, 12 August 2003.

1309 Minutes of Gold Group meeting, MPS071568001, p3, 12 August 2003.

1310 Letter from Colin Gibbs to DCS David Cook, T/D/Supt David Zinzan and DCI Neil Hibberd, MPS072321001, p2, 02 September 2003.

1311 Unattributed note of discussion with Colin Gibbs, HOM000316001, undated.



## 16 Post-Abelard One/Morgan Two

### 16.1 The review of the Abelard One/Morgan Two Investigation by DI Steve Hagger

499. Following the Abelard One/Morgan Two Investigation, DI Steve Hagger stated that:

*'[o]n behalf of the Murder Review Group I have examined this file and in particular the response to the 83 recommendations made after the review. It is apparent that the majority of the recommendations have been fully carried out leaving a handful that, after the passage of time; it now seems impossible to undertake.'*<sup>1312</sup>

500. In September 2003, in a letter to the Metropolitan Police Commissioner, Isobel Hülsmann expressed her disappointment and frustration with the decision of the Crown Prosecution Service not to prosecute.<sup>1313</sup>

501. A review of the investigation was chaired by DAC Michael Fuller.<sup>1314</sup> On 07 November 2003, DAC Fuller wrote to AC Tarique Ghaffur and reported that:

*'[d]uring the review meeting it was apparent that the brothers Glen [sic] Vian and Gary [sic] Vian had been plotting to kill persons unknown and clearly represent a danger to the public. In view of this I recommend that these two individuals be targeted by specialist units[...].'*<sup>1315</sup>

502. Following DAC Michael Fuller's review of the Abelard One/Morgan Two Investigation,<sup>1316</sup> a meeting dated 23 December 2003, recorded the following:

*'DAC Griffiths has called the meeting after the closing review into the murder of Daniel Morgan in 1987, chaired by DAC Fuller, recommended a pro-active operation be launched on two of the suspectssuspects [sic] for the murder – Glen [sic] Vian and Gary [sic] Vian. The operation is NOT to gather evidence for the original murder, but the IO [Investigating Officer] for the new operation should have evidence gathering opportunities in mind.'*<sup>1317</sup>

503. D/Supt Mick Allen told the meeting that Garry Vian was currently part of another police enquiry, Operation Bedingham, but that at that time Glenn Vian 'did not come within the remit of the enquiry'.<sup>1318</sup> A note of the meeting shows that D/Supt Allen was tasked by DAC William Griffiths to include Glenn Vian within Operation Bedingham.<sup>1319</sup>

504. In response to Isobel Hülsmann's letter of September 2003<sup>1320</sup> expressing disappointment that no prosecution was to take place, on 06 May 2004 Colin Gibbs of the Crown Prosecution Service provided a written summary of the reasons not to prosecute.<sup>1321</sup> Colin Gibbs' summary

1312 File note by DI Steve Hagger, MPS094325001, p10, undated.

1313 Letter from Isobel Hülsmann to Sir John Stevens, MPS108276001, pp29-30, 24 September 2003.

1314 Letter from DAC Michael Fuller to AC Tarique Ghaffur, MPS094325001, p11, 07 November 2003.

1315 Letter from DAC Michael Fuller to AC Tarique Ghaffur, MPS094325001, p11, 07 November 2003.

1316 Letter from DAC Michael Fuller to AC Tarique Ghaffur, MPS094325001, p11, 07 November 2003.

1317 Note of meeting, MPS094325001, p21, 23 December 2003.

1318 Note of meeting, MPS094325001, p21, 23 December 2003.

1319 Note of meeting, MPS094325001, p22, 23 December 2003.

1320 Letter from Isobel Hülsmann to the Commissioner, Sir John Stevens, MPS108276001, pp29-30, 24 September 2003.

1321 Reasons for the Crown Prosecution Service decision not to prosecute suspects following the murder of Daniel Morgan, HOM000325001, 06 May 2004.

indicated that the Crown Prosecution Service had '*carefully considered*' the advice of Counsel and '*police views and arrived at the conclusion there was not a realistic prospect of a conviction, pursuant to the Code for Crown Prosecutors*'.<sup>1322</sup>

505. On 13 September 2004, the Director of Public Prosecutions responded to the letter from Home Office Minister, Hazel Blears MP, dated 26 August 2004 requesting information on the actions taken by the Crown Prosecution Service to meet the concerns of the family of the deceased, including the explanation of the reasons for not prosecuting the suspects. The Director of Public Prosecutions' letter contained a summary of contact between the Crown Prosecution Service and the family of Daniel Morgan following the decision not to prosecute, including two meetings attended by the Crown Prosecution Service and Counsel at which topics of concern raised by family members were discussed.<sup>1323,1324</sup>

506. In 2006, while overseeing the preparation and submission of a report on the investigations into the murder of Daniel Morgan for the Metropolitan Police Authority (see Chapter 7, The 2006 Report), DAC John Yates noted that the Abelard One/Morgan Two Investigation '*was one of the most expensive and resource intensive re-investigations that the Metropolitan Police has conducted. The total cost exceeded £2 million.*'<sup>1325</sup>

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1322 Reasons for the Crown Prosecution Service decision not to prosecute suspects following the murder of Daniel Morgan, HOM000325001, p1, 06 May 2004.

1323 Letter to Ken Macdonald from Hazel Blears MP attaching letter to Chris Smith MP, HOM000357001, pp1-3, 26 August 2004.

1324 Letter to Hazel Blears MP from Ken Macdonald, HOM000360001, pp1-2, 13 September 2004.

1325 Commissioning brief for the 2006 Report from the Commissioner of the Metropolitan Police Service to the Metropolitan Police Authority, MPS001308001, p47, 31 January 2006.

# Chapter 7: The 2006 Report from the Commissioner of the Metropolitan Police Service to the Metropolitan Police Authority ('the 2006 Report')

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## 1 Introduction

1. This chapter outlines the content of the Metropolitan Police's 2006 Report to the Metropolitan Police Authority and whether the report met its brief.

2. The Metropolitan Police Authority was established in 2000;<sup>1</sup> it held the Metropolitan Police Commissioner to account and scrutinised the work of the Metropolitan Police. Part of its role was to monitor the performance of the Metropolitan Police and ensure continuous improvement. This included in depth projects looking into aspects of the work of the Metropolitan Police.<sup>2</sup>

3. On 27 October 2005, a report on the investigations and review of the murder of Daniel Morgan was commissioned. The report was submitted on 07 April 2006 (hereafter referred to as the 2006 Report).<sup>3</sup> It was provided to the family on 10 April 2006.

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1 The Metropolitan Police Authority was established in 2000 by the Greater London Authority Act 1999. One of the aims of the Act was to ensure that the Metropolitan Police was democratically accountable.

2 The Metropolitan Police Authority has since been replaced by the Mayor's Office for Policing and Crime (MOPAC).

3 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp160-213, 07 April 2006.

4. The 2006 Report was originally envisaged by the Metropolitan Police Authority to be the first part of a two-stage process. The second stage was intended to be a review of documents by an independent barrister. That second stage did not occur because of new emerging evidence and the establishment of the Abelard Two Investigation.

### 1.1 Chronology of key events relating to the 2006 Report

- **08 December 2004** Home Office Minister, Hazel Blears MP, refused to order a public inquiry into the police handling of Daniel Morgan's murder.
- **January 2005** The Metropolitan Police provided a briefing note on events from March 1987 to December 2004 to the Chair of the Metropolitan Police Authority, Len Duvall, and the Mayor of London's Office.
- **19 May 2005** Alastair Morgan and other family members met Len Duvall, and their local Metropolitan Police Authority representative, Jennette Arnold.
- **27 October 2005** A report was commissioned by the Metropolitan Police Authority.
- **31 January 2006** The 2006 Report was submitted to the Metropolitan Police Authority.
- **03 February 2006** The Metropolitan Police Authority rejected the 2006 Report as inadequate.
- **March 2006** The Abelard Two Investigation began under the leadership of DCS David Cook.
- **07 April 2006** An amended version of the 2006 Report was submitted to the Metropolitan Police Authority.
- **10 April 2006** The amended version of the 2006 Report was provided to members of Daniel Morgan's family.

### Officers of significance in this chapter, in order of rank

- Commissioner Sir Ian Blair
- Assistant Commissioner Alan Brown
- Deputy Assistant Commissioner (later Assistant Commissioner) John Yates
- Detective Chief Superintendent David Cook

## 2 The commissioning of the 2006 Report

5. Daniel Morgan's brother, Alastair Morgan, and other family members met the Chair of the Metropolitan Police Authority, Len Duvall, and their local Metropolitan Police Authority representative, Jennette Arnold, on 19 May 2005, as part of the family's ongoing campaign to seek an inquiry into suspected mishandling, collusion and cover up within the investigations into Daniel Morgan's murder.<sup>4</sup>

6. At the meeting, Alastair Morgan and family members provided information on the events surrounding Daniel Morgan's murder and the police investigations which followed. They also raised concerns about the refusal on 08 December 2004,<sup>5</sup> by Home Office Minister, Hazel Blears MP, to order a public inquiry into the police handling of the case. A further meeting occurred on 27 June 2005, during which Len Duvall outlined ways in which the Metropolitan Police Authority might be able to take action.<sup>6</sup>

7. The Metropolitan Police Directorate of Legal Services had informed DAC John Yates in June 2005 that the Metropolitan Police Authority was likely to require a review report.

8. On 14 July 2005, Len Duvall wrote to Alastair Morgan proposing two courses of action.<sup>7</sup> The first course of action was to require a report to the Metropolitan Police Authority from the Commissioner under Section 22(3) of the Police Act 1996. Len Duvall stated:

*'A draft brief for this report is attached. Realistically, we are looking at October as the likely timeframe for the production of this report. It would be put to the Authority or an appropriate committee – I would want this to be in public session unless there was a compelling reason why not. I understand that you have no faith in any report produced by the MPS [Metropolitan Police Service] but I do consider that it would be of value, particularly if complemented by the legal review proposed in option 2.'*<sup>8</sup>

9. It was suggested that this would be followed by an independent review of all the investigations:

*'For the MPA [Metropolitan Police Authority] to engage the services of an experienced Barrister to independently review all the case papers in relation to the murder of your brother and the subsequent investigations. This course will require the formal agreement of the Commissioner and his consent to disclose all pertinent material to the independent reviewer. I am confident that this consent will be given from the Metropolitan Police Service. I would envisage the brief would invite Counsel to provide a comprehensive appraisal of the several investigations and the various decisions by police and prosecuting authorities and to comment generally on the conduct of the investigations, and in particular to advise whether the case papers:*

- *point to conclusions other than those reached by the most recent MPS [Metropolitan Police Service] review of the investigation*

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4 Report by the Chief Executive and Clerk of the Metropolitan Police Authority, 'The Murder of Daniel Morgan' MPA000004001, p3, 27 October 2005.

5 Letter from Home Office Minister, Hazel Blears MP to Bhatt Murphy Solicitors, HOM000052001, 08 December 2004.

6 Report by the Chief Executive and Clerk of the Metropolitan Police Authority, 'The Murder of Daniel Morgan' MPA000004001, p4, para 15, 27 October 2005.

7 Letter from Len Duvall to Alastair Morgan, PNL000103001, p304, 14 July 2005.

8 Letter from Len Duvall to Alastair Morgan, PNL000103001, p304, 14 July 2005.



## The Report of the Daniel Morgan Independent Panel

- *indicate police corruption/collusion or involvement in either in [sic] the murder itself or the subsequent failure of investigations*
- *provide sufficient grounds to justify any prosecutions*
- *raise issues that could best be pursued through a public inquiry (for instance because of the power to summons witnesses) and what risks might flow from such an inquiry in relation to prospective prosecutions.*<sup>9</sup>

10. At a meeting of the Metropolitan Police Authority on 27 October 2005, the two courses of action above were discussed. The Chief Executive of the Metropolitan Police Authority, Catherine Crawford, sought a decision as to whether the Authority wished to commission the report from the Metropolitan Police, as suggested by the Chair, Len Duvall, and asked for a decision in principle in relation to an independent case review, *'pending an assessment of its likely scale and scope which will be informed by the contents of the Commissioner's report'*.<sup>10</sup>

11. The Deputy Chief Executive and Solicitor to the Metropolitan Police Authority, David Riddle, set out the parameters of the proposed 2006 Report in a report presented to the meeting on 27 October 2005, in which he stated the following:

*'The Authority has no functions in relation to the investigation of the crime as such, or in relation to decisions whether or not to prosecute. Those are matters for the Commissioner and the prosecuting authority respectively.*

*'However, in pursuing its responsibilities to secure effective and efficient policing, and to hold the Commissioner to account for the performance of the MPS [Metropolitan Police Service], the Authority has a legitimate interest in receiving an explanation from the Commissioner of the MPS' actions in the case. The Authority has the power to require a report from the Commissioner about past matters as well as present ones, and the power to obtain independent legal advice to assist it to come to a view on the conduct of the investigations as a matter of performance and learning.'*<sup>11</sup>

12. Minutes of the 27 October 2005 meeting recorded the following:

*'The Authority was being asked to consider requesting the Commissioner to provide a comprehensive and transparent report on the case to its January meeting. At that point the Authority would be invited to consider appointing an independent barrister to carry out a review. The scope of that review had been left reasonably fluid as it would be informed by the content of the Commissioner's report, but it was meant to be a short and focussed review.'*<sup>12</sup>

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9 Letter from Len Duvall to Alastair Morgan, PNL000103001, pp304-305, 14 July 2005.

10 Report by the Chief Executive and Clerk of the Metropolitan Police Authority, *'The Murder of Daniel Morgan'* MPA000004001, p5, para 18, 27 October 2005.

11 Report by the Chief Executive and Clerk of the Metropolitan Police Authority, *'The Murder of Daniel Morgan'*, MPA000004001, pp4-5, para 17, 27 October 2005.

12 Metropolitan Police Authority meeting minutes, MPA000014001, p6, 27 October 2005.

13. Discussion continued:

*'AC [Alan] Brown commented on behalf of the MPS [Metropolitan Police Service] that there had been three investigations into this case. The third investigation had proposed to the CPS [Crown Prosecution Service] the prosecution of three people. The CPS decision had been that there was insufficient evidence to proceed. The report of this investigation had been made available to the family. The MPS considered that it had explored all available avenues of inquiry in a robust way. He commented that there would be a significant impact on MPS resources to produce the proposed report and this probably could not be achieved by January. Further, the proposed second stage by a barrister would be long and expensive. He suggested instead a review of the latest investigation by a barrister, possibly one of those who had reviewed the case for the CPS in view of their existing knowledge of the case.'*

*'The Commissioner [Sir Ian Blair] commented that it was clear that the first investigation had been compromised but the second and third investigations had tried to correct that and the MPS had done that to the best of its abilities.'*<sup>13</sup>

*'Jennette Arnold expressed concern that the MPS's alternative proposal had not been put forward at an earlier stage than the meeting itself. She commented that the Morgans had felt that their meetings with the Authority's Chair were the first time that their concerns were being listened to. She considered that it was the Authority's duty to hold the police to account on an outstanding and relevant issue.'*

*'[...] However, the Chair emphasised his view that, although the murder had taken place some years before, there were a number of unanswered questions which would continue to cast doubt on the integrity of the police service. He maintained the course of action proposed in the report and he expected the MPS to co-operate in this. It was not his intention that the second stage review would re-investigate what others had done but to ask focussed questions. He was mindful of the need to keep the cost of this exercise within reasonable bounds. In response the Commissioner said that the MPS would co-operate fully in this exercise.'*<sup>14</sup>

**14. The Metropolitan Police Authority was given no prior notice of the proposal for a review only of the latest investigation by a barrister. Ultimately, however, the Commissioner accepted the requirement by the Metropolitan Police Authority.**

**15. Commissioner Sir Ian Blair's reference, in the meeting, to the 'second investigation' could be interpreted as meaning the Hampshire/Police Complaints Authority Investigation. That investigation did not sufficiently address the problems deriving from the first investigation, nor did it fully address its Terms of Reference (see Chapter 3, The Hampshire/Police Complaints Authority Investigation) nor did the Abelard One/Morgan Two Investigation sufficiently address the problems deriving from the first investigation. While broadly effective, it did not review all the original papers to determine new investigative leads, but instead relied largely on the 2000 Murder Review Report in compliance with its Terms of Reference (see Chapter 6, The Abelard One/Morgan Two Investigation).**

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<sup>13</sup> Metropolitan Police Authority meeting minutes, MPA000014001, p6, 27 October 2005.

<sup>14</sup> Metropolitan Police Authority meeting minutes, MPA000014001, pp6-7, 27 October 2005.

16. Commissioner Sir Ian Blair's statement, that the Metropolitan Police had tried '*to the best of its abilities*' to correct the problems deriving from the Morgan One Investigation, was inaccurate. The account provided to the Metropolitan Police Authority by the Commissioner had the effect of overstating the extent of past efforts by the Metropolitan Police to rectify the problems in the Morgan One Investigation.

17. The Metropolitan Police Authority decided to require the Commissioner, under section 22(3) of the Police Act 1996, to submit a report to the Authority on the murder of Daniel Morgan and the investigations of that crime.<sup>15</sup> Once it had reviewed the report, the Metropolitan Police Authority would then consider whether to engage a barrister independently to review the case papers.<sup>16</sup>

18. On 03 November 2005, the Metropolitan Police Authority's Chief Executive, Catherine Crawford, wrote to Commissioner, Sir Ian Blair, stating that the Metropolitan Police Authority had agreed to receive the report at its meeting scheduled for 26 January 2006, that members of Daniel Morgan's family would be given the opportunity to view the report and submit comments to the Metropolitan Police Authority, and that the report would therefore need to be completed, or substantially completed, by the end of December 2005. Catherine Crawford specifically stated in her letter: '*I would be grateful if you could alert me at the earliest opportunity if this is not going to be possible, with your estimate of the timescale required for completion of a suitably comprehensive report.*'<sup>17</sup>

19. The Panel spoke separately to Len Duvall and David Riddle, both of whom described the process leading up to the commissioning of the 2006 Report and gave accounts of the discussions they had with the Metropolitan Police before the 27 October 2005 meeting. Len Duvall told the Panel in July 2017 that he felt that some senior officers were against any action which might lead to the reopening of the case,<sup>18</sup> but he believed that some senior officers agreed with him that corruption was still an issue, and that the murder of Daniel Morgan was '*unfinished business*' that needed to be dealt with.<sup>19</sup> Len Duvall described to the Panel a '*heated conversation*' which took place in his office between two senior officers who expressed differing views.<sup>20</sup>

20. On 13 June 2017, David Riddle said to the Panel he had perceived a mindset among the Metropolitan Police in 2005 that the handling of the case in 1987 had met the standards applicable at the time.<sup>21</sup>

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15 Section 22(3) of the Police Act 1996 was the provision that '[t]he chief officer of police of a police force shall, whenever so required by the police authority, submit to that authority a report on such matters as may be specific in the requirement, being matters connected with the policing of the area for which the force is maintained'; available online at [www.legislation.gov.uk/ukpga/1996/16/section/22](http://www.legislation.gov.uk/ukpga/1996/16/section/22).

16 Metropolitan Police Authority meeting minutes, MPA000014001, p7, 27 October 2005.

17 Letter from Catherine Crawford to Sir Ian Blair concerning the murder of Daniel Morgan, 03 November 2005; available online at [www.policeauthority.org/metropolitan/work/cases/morgan/index.html](http://www.policeauthority.org/metropolitan/work/cases/morgan/index.html).

18 Panel interview with Len Duvall, PNL000252001, pp1-2, para 5, 20 July 2017.

19 Panel interview with Len Duvall, PNL000252001, pp1-2, para 5, 20 July 2017.

20 Panel interview with Len Duvall, PNL000252001, p2, para 9, 20 July 2017.

21 Panel interview with David Riddle, PNL000251001, p1, para 5, 13 June 2017.

## 2.1 The commissioning brief

21. The commissioning brief for the 2006 Report very much reflected Daniel Morgan's family's view of the situation and was as follows:

*'To report on the murder of Daniel Morgan and the subsequent investigations of that crime, and specifically on:*

- 1. the murder and the circumstances surrounding the murder*
- 2. the first investigation of the murder carried out by the MPS [Metropolitan Police Service] – giving a comprehensive account of the investigation and its weakness including the possibility of the investigation being compromised and specifically covering
  - a. the role of ex PS [sic] Sidney Fillery in that investigation: and*
  - b. the extent to which other police officers were amongst those who sought to protect him**
- 3. The Coroner's inquest and verdict, including in particular the extent to which the inquiry was necessarily reliant upon the products of the first MPS investigation and therefore crippled by any identified weaknesses in that investigation (not least in relation to forensic evidence relating to the murder weapon and the integrity of the crime scene)*
- 4. The further investigation by Hampshire Police, addressing in particular
  - a. The extent to which the terms of reference of the investigation were changed whereby its focus was shifted away from its original purpose of investigating police involvement in the deceased's murder; and*
  - b. The extent to which the report of the investigation to the PCA [Police Complaints Authority] on the question of police involvement in the murder was misleading in its findings, not least in relation to forensic evidence relating to the murder weapon and the integrity of the crime scene.**
- 5. Subsequent reviews and re-investigation by the MPS, addressing in particular the circumstances in which the third investigation (The Two Bridges Inquiry) was conducted almost entirely without the knowledge of the deceased's family until it came to be aborted.*
- 6. The extent of police corruption as it related to the murder of Daniel Morgan and the subsequent investigation*
- 7. The current status of the inquiry*
- 8. The lessons learned by the MPS from this case*

*The Commissioner's report will be made available to the family of the deceased.'*<sup>22</sup>

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<sup>22</sup> Letter from Catherine Crawford to Sir Ian Blair concerning the murder of Daniel Morgan, 03 November 2005; available online at [www.policeauthority.org/metropolitan/work/cases/morgan/index.html](http://www.policeauthority.org/metropolitan/work/cases/morgan/index.html).

22. Following the refusal by the Home Office Minister, Hazel Blears MP, to commission a public inquiry into how the police handled the Daniel Morgan case, the family's subsequent, sustained campaign was instrumental in the Metropolitan Police Authority commissioning the 2006 Report on the police investigations into Daniel Morgan's murder.

### 3 The Metropolitan Police management of the 2006 Report

23. DCS David Cook was tasked to prepare the 2006 Report, under the management of AC Alan Brown and subsequently DAC (later AC) John Yates. Former AC Yates told the Panel in August 2016 that he was given a *'firm steer'* by Len Duvall, and by Commissioner Sir Ian Blair, and was told that the report needed to be a thorough piece of work.<sup>23</sup>

24. Len Duvall and David Riddle, in their separate interviews with the Panel, agreed that the attitude of DAC John Yates was constructive, and that he took a positive approach to the case and to the concerns of the family of Daniel Morgan.<sup>24,25</sup>

#### 3.1 DCS David Cook's role

25. Although DAC John Yates was responsible for the 2006 Report, it was prepared by DCS David Cook, who had been the Senior Investigating Officer for the overt side of the Abelard One/Morgan Two Investigation which had taken place between 2002 and 2003. DCS Cook wrote the 2006 Report and was actively supervised by DAC Yates, who also edited some of the report.<sup>26</sup> Former AC Yates told the Panel that he asked DCS Cook to write the report because of DCS Cook's *'knowledge of the case'*, saying that he was the Metropolitan Police's *'corporate memory'* in this regard, and also because maintaining the confidence of members of Daniel Morgan's family was a central part of the Metropolitan Police strategy in the case.<sup>27</sup>

26. In October 2005, DCS David Cook was on secondment from the Metropolitan Police to Her Majesty's Revenue & Customs. He worked on the 2006 Report while simultaneously working at Her Majesty's Revenue & Customs. The Panel has not seen any documentary evidence from the Metropolitan Police nor from Her Majesty's Revenue & Customs during this period detailing how this arrangement worked, but the Panel has seen some later material giving the views of former DCS Cook on the arrangement. Former DCS Cook submitted a prepared statement to the Independent Police Complaints Commission (now the Independent Office for Police Conduct) in 2012. In this statement, he described the situation as follows:

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23 Panel interview with former AC John Yates, PNL000243001, p2, para 5, 30 August 2016.

24 Panel interview with Len Duvall, PNL000252001, p2, para 9, 20 July 2017.

25 Panel interview with David Riddle, PNL000251001, p1, para 5, 13 June 2017.

26 Panel interview with former AC John Yates, PNL000243001, p2, para 5, 30 August 2016.

27 Panel interview with former AC John Yates, PNL000243001, pp2 and 4, paras 9 and 16, 30 August 2016.



*'In October 2005, I was approached and asked if I would review the investigation and prepare a report for the Police Authority. The only other Officer with knowledge of the case had taken some personal leave and was unavailable. HMRC [Her Majesty's Revenue & Customs] agreed that I could assist. I received 125 crates of material and began the immense task I had been given. I was offered no assistance and this was on top of my day job at HMRC.'*<sup>28</sup>

27. In January 2021, former DCS Cook stated to the Panel that he had faced numerous issues when tasked with drafting the 2006 Report while on full-time secondment. He had been provided with the help of only one Detective Constable, whose support he received after numerous requests. Despite requesting further help he was not provided with any further resources.

28. The appointment of DCS David Cook to prepare the 2006 Report was reasonable on the basis that:

- i. the 2006 Report was not intended to be an independent review but was a summary to the Metropolitan Police Authority of what the Metropolitan Police had done so far to investigate the murder of Daniel Morgan; and
- ii. the time frame (of three months) given to produce the 2006 Report was limited, and an officer unacquainted with the case would have needed more time.

29. The deadline of 26 January 2006, set by the Metropolitan Police Authority,<sup>29</sup> was not met but the 2006 Report was submitted five days later, on 31 January 2006.<sup>30</sup>

30. DCS David Cook was faced with a huge task within a very tight deadline, particularly since he had been asked to complete this while working full time for Her Majesty's Revenue & Customs. The Panel has seen no evidence DAC John Yates considered:

- whether additional resources were required to meet the deadline; and
- whether he should have alerted the Metropolitan Police Authority to the fact that it would be difficult to meet the proposed deadline, as requested in Catherine Crawford's letter of 03 November 2005 (see paragraph 18 above).

Former DAC Yates acknowledged to the Panel that there were inevitable limitations when preparing the 2006 Report, and that aspects of the case could have been examined in greater detail in the report had the time and resources been available.

<sup>28</sup> Prepared statement of David Cook's to the IPCC (now IOPC) in 2012, p6, para 47, IPC001318001.

<sup>29</sup> Letter from Catherine Crawford to Sir Ian Blair concerning the murder of Daniel Morgan, 03 November 2005; available online at [www.policeauthority.org/metropolitan/work/cases/morgan/index.html](http://www.policeauthority.org/metropolitan/work/cases/morgan/index.html).

<sup>30</sup> Letter enclosing Report to the Metropolitan Police Authority by DAC John Yates, MPS094332001, pp23-24, 31 January 2006.

## 4 The Panel's analysis of the revised and final version of the 2006 Report

31. The first version of the report submitted in January 2006 by the Metropolitan Police to the Metropolitan Police Authority was rejected. A revised version was submitted on 07 April 2006. This was accepted. The final version was provided to members of Daniel Morgan's family on 10 April 2006.<sup>31</sup>

32. The Panel has assessed the content of the final 2006 Report against the version initially submitted in January 2006. Although the Panel's analysis is based on the final version of the 2006 Report, any differences in content between the two versions of the report are identified and set out.

33. In reviewing the 2006 Report, the Panel sought to understand the extent to which the report satisfied the requirements of the commissioning brief outlined above (see paragraph 21), and to establish whether it rendered a clear and accurate account of Daniel Morgan's murder, and the investigations and proceedings which followed. The Panel engaged in a systematic comparative analysis, which involved comparing the statements and claims made in the report against its own analysis of the investigative material disclosed by the Metropolitan Police. The Panel's analysis below broadly follows the structure and order of content as in the 2006 Report.<sup>32</sup>

34. The 2006 Report was structured as follows:

- a. Factual background
- b. Motive
  - i. Belmont Car Auctions civil action
  - ii. A disgruntled client
  - iii. Robbery
  - iv. Financial embezzlement by Daniel Morgan
  - v. Daniel Morgan's affair with Margaret Harrison
  - vi. Jonathan Rees's hatred of Daniel Morgan
- c. The murder of Daniel Morgan as linked to the suicide of DC Alan 'Taffy' Holmes
- d. Conclusion
- e. The murder and the circumstances surrounding the murder
- f. The first investigation of the murder carried out by the Metropolitan Police
- g. The Coroner's Inquest and verdict
- h. The further investigation by Hampshire Constabulary

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<sup>31</sup> Letter from David Riddle to Raju Bhatt, MPS094332001, pp6-7, 10 April 2006.

<sup>32</sup> The Panel has introduced some of its own structure headings where they were not present in the 2006 Report. This is to assist the reader in understanding the different topics presented in the 2006 Report.

- i. Subsequent reviews and reinvestigation by the Metropolitan Police
- j. The extent of police corruption as it related to the murder of Daniel Morgan and the subsequent investigation
- k. The current status of enquiry
- l. The exhibits and forensics
- m. The lessons learned by the Metropolitan Police from this case.<sup>33</sup>

## 4.1 Factual background

35. The 2006 Report presented brief biographical overviews of Daniel Morgan, his business partner at Southern Investigations, Jonathan Rees, DS Sidney Fillery, Glenn Vian and James Cook, before providing an overview and assessment of various motives which had been considered for Daniel Morgan's murder.<sup>34</sup>

36. The 2006 Report stated that '*[t]he motive for the murder has never been positively identified albeit a number have been suggested over the years*'.<sup>35</sup> The titles (as stated in the 2006 Report) for each motive are reproduced here.

### 4.1.1 Motive one: 'The Belmont Car Auctions civil action'

37. The first possible motive identified in the 2006 Report was the Belmont Car Auctions civil action, the facts of which were reported accurately (see Chapter 1, The Morgan One Investigation).<sup>36</sup>

38. The 2006 Report concluded that:

*'[t]he animosity between the partners and the requirements for Southern Investigations to deposit £10,000 at the High Court made [Daniel] Morgan angry and depressed. This with the other possible motives detailed in this report, may have driven [Jonathan] Rees to finally dispense with an already hated, and in his view, troublesome partner.'*<sup>37</sup>

### 4.1.2 Motive two: 'A Disgruntled Client'

39. The 2006 Report stated that Daniel Morgan may have been murdered by someone with whom he came into contact during his business, as '*it was not unusual for people in the private investigation industry to be the subject of such threats from time to time without them ever being realised*'.<sup>38</sup>

40. The 2006 Report stated that the '*disgruntled client*' line of enquiry was introduced into the investigation by Jonathan Rees on 11 March 1987, when his statement was taken by DS Sidney Fillery, and suggested that '*[i]t cannot be discounted that this was a diversionary tactic employed either by Rees and or Fillery*'.<sup>39</sup>

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33 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp162-213, 07 April 2006.

34 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp162-165, paras 18-40, 07 April 2006.

35 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p166, para 41, 07 April 2006.

36 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp166-170, 07 April 2006.

37 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p170, para70, 07 April 2006.

38 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p171, para 73, 07 April 2006.

39 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p171, para 72, 07 April 2006.

41. The 2006 Report concluded that:

*'[t]he "Disgruntled Client" line of enquiry has been investigated over the years and a number of individuals traced and interviewed. Although it can never be discounted, there is no real evidence, intelligence or information available to suggest that this is a motive.'*<sup>40</sup>

42. Although the 2006 Report referred to this motive as the *'disgruntled client'*, and said that this possible motive was introduced by Jonathan Rees in 1987, threats were identified by the Morgan One Investigation as coming from people who may have been investigated, or otherwise affected by Daniel Morgan's work, as opposed to those who had instructed him (see Chapter 1, The Morgan One Investigation).

#### 4.1.3 Motive three: 'Robbery'

43. The 2006 Report stated that it had previously been suggested that Daniel Morgan may have been the victim of a violent robbery. The report discounted robbery as a viable motive, because Daniel Morgan was found with '£1,170.00p' in his jacket pocket<sup>41</sup> and stated that an officer who attended the scene of Daniel Morgan's murder, DC Noel Cosgrave, thought that he saw a Rolex watch on his body.<sup>42</sup> However, in his statements of 27 May 1987<sup>43</sup> and 04 October 1988,<sup>44</sup> DC Cosgrave had made no mention of Daniel Morgan's Rolex watch. In his statement of 19 April 1989, DC Cosgrave had stated that he was *'unable to say if there was a wristwatch on MORGAN's body'*.<sup>45</sup> The 2006 Report did not state that DC Cosgrave had first said that Daniel Morgan had been wearing his Rolex watch in August 2002, some 15 years after Daniel Morgan's murder.<sup>46,47</sup> Nor did it record that former DC Cosgrave's 2002 statement was inconsistent with his earlier statements.

44. While the Panel acknowledges the time and resource constraints that the authors of the 2006 Report were under, the inconsistency in former DC Noel Cosgrave's accounts should have been reflected in the 2006 Report.

45. The 2006 Report emphasised that an axe, which had been prepared *'with two rings of plaster taped around the handle to assist the attacker's grip'*,<sup>48</sup> had been used in the murder. The 2006 Report concluded that *'[i]n light of these circumstances, robbery as a motive appears to be highly unlikely'*.<sup>49</sup>

40 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p172, para 77, 07 April 2006.

41 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p172, para 79, 07 April 2006.

42 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp172-173, 07 April 2006.

43 Witness statement of DC Noel Cosgrave, MPS017993001, p1, 27 May 1987.

44 Witness statement of DC Noel Cosgrave, MPS017994001, p1, 04 October 1988.

45 Witness statement of DC Noel Cosgrave, MPS000157001, p1, 19 April 1989.

46 Message M25, 'Crimewatch', MPS059885001, p1, 26 June 2002.

47 Witness statement of DC Noel Cosgrave, MPS060404001, p1, 06 August 2002.

48 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p173, para 82, 07 April 2006.

49 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p173, para 82, 07 April 2006.

46. From the Panel's examination of the evidence from the Morgan One Investigation, the method of the murder, the presence of a large sum of money on the body of Daniel Morgan, and the summary provided in the 2006 Report, the statement that '*robbery as a motive appears to be highly unlikely*' appears reasonable.

#### 4.1.4 Motive four: 'Final embezzlement by Daniel Morgan'

47. Financial investigations into Daniel Morgan's and Jonathan Rees's firm, Southern Investigations, had been undertaken by the Abelard One/Morgan Two Investigation in 2002 (see Chapter 6, The Abelard One/Morgan Two Investigation). These enquiries were considered in the 2006 Report, which stated that both Daniel Morgan and Jonathan Rees drew significant amounts of money from the business in excess of their salaries, with the company's balance sheet showing net liabilities of £14,825 in April 1987, and that '*[a]s a consequence, by 1987 Southern Investigations had become insolvent*'.<sup>50</sup> The accounts were stated to show that Daniel Morgan withdrew £9,690 more than Jonathan Rees over the period of the partnership, but the 2006 Report noted that this did not take into account any other private expenses included as business expenses in the partnership accounts, and that, by March 1987, unpaid partnership tax amounted to £24,400 plus interest and penalties. The 2006 Report concluded that '*[t]hese financial dealings, along with the fact that Morgan set up another company with the intention of substantially reducing the benefit Rees would receive from the bailiff side of the business, adds to an overall motive for Rees*'.<sup>51</sup>

48. Consideration of the financial position of Southern Investigations as a motive for murder was relevant and appropriate.

#### 4.1.5 Motive five: 'Daniel Morgan's affair with Margaret Harrison'

49. The 2006 Report noted admissions by Margaret Harrison (who worked at a local estate agent's office) that she and Daniel Morgan had a brief relationship and that they continued to meet socially. It also referred to telephone data analysis which revealed that Jonathan Rees had telephoned Margaret Harrison 62 times at her workplace and five times at her home address between October 1986 and March 1987, while Daniel Morgan had contacted her on only 11 occasions and only at work during the same period (see Chapter 1, The Morgan One Investigation).<sup>52</sup> The 2006 Report stated that it was reasonable to assume that some form of relationship had begun between Jonathan Rees and Margaret Harrison. There was '*anecdotal evidence*' to suggest that Jonathan Rees was '*besotted*' with Margaret Harrison, and therefore the motive may have involved jealousy about her friendship with Daniel Morgan.<sup>53</sup>

50 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp173-174, para 86, 07 April 2006.

51 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p174, para 90, 07 April 2006.

52 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p175, para 92, 07 April 2006.

53 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p175, para 93, 07 April 2006.



50. The overall assessment of this potential motive was as follows:

*'It is not believed that this is a motive in its own right. The ongoing investigations have identified those who the MPS [Metropolitan Police Service] believe were responsible for the murder and because of relationship issues, this may have been an added reason for Rees in particular but not the sole one.'*<sup>54</sup>

51. Margaret Harrison had admitted that she had lied to the police in 1987 and in 1989 and to the Inquest into Daniel Morgan's death in 1988 when she had said that she was not in a relationship with Jonathan Rees at that time. This matter was not dealt with adequately in the 2006 Report, as it did not address the fact that Margaret Harrison had lied on this subject; nor did it explore the significance of the relationships which Daniel Morgan and Jonathan Rees had with Margaret Harrison, nor analyse what Jonathan Rees had said about this matter.

#### **4.1.6 Motive six: 'REES' hatred of MORGAN'**

52. The 2006 Report summarised evidence obtained from witnesses in the Morgan One and Hampshire/Police Complaints Authority investigations, in particular Kevin Lennon's evidence concerning Jonathan Rees's hatred of Daniel Morgan:

*'A number of people provide evidence of the ill feeling between Morgan and Rees. Morgan believed that Rees was lazy and that the success of the business was due to his own hard work.'*

*'Daniel Morgan was against involving the company in security work worrying about the effect this would have on their reputation with other clients. The relationship deteriorated over time and eventually Rees grew to despise Morgan. He could not suffer his personality, his behaviour, and client complaints about Morgan's inability to deal with the files in his office.'*

*'The relationship had deteriorated over the years to a point where Rees was often openly hostile towards Morgan and both were talking to third parties about ending the partnership. Rees' hatred of Morgan could have only contributed to an overall motive.'*<sup>55</sup>

#### **4.1.7 Motive seven: The murder of Daniel Morgan as linked to the suicide of DC Alan Holmes**

53. The 2006 Report referred to previous enquiries into the death of DC Alan 'Taffy' Holmes (see Chapter 1, The Morgan One Investigation; and Chapter 3, The Hampshire/Police Complaints Authority Investigation), noting Jonathan Rees's influence on this line of enquiry and his suggestion to the Hampshire/Police Complaints Authority Investigation that DC Holmes, Commander Ray Adams and the 1983 Brinks-Mat robbery were connected with the murder.<sup>56</sup> He had repeated the suggestion to a bookkeeper at Southern Investigations, who had made a statement to this effect in 1989. The 2006 Report stated that Jonathan Rees had told the

54 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p175, para 94, 07 April 2006.

55 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp175-176, paras 95-97, 07 April 2006.

56 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p177, para 103, 07 April 2006.

bookkeeper at Southern Investigations that Daniel Morgan had obtained information from DC Holmes about the activities of Commander Adams and the Brinks-Mat robbery and was going to sell this information to a newspaper.<sup>57</sup>

54. The 2006 Report concluded that '[a]bsolutely no evidence has been found to link the death of DC Holmes, the activities of ex-Commander Ray Adams, or the Brinks Mat robbery to the Morgan murder'.<sup>58</sup> The 2006 Report also concluded that '[i]t is almost inconceivable to believe that a journalist, having been approached by Morgan about a story on high level corruption, would not have capitalised on it once his murder had been announced'.<sup>59</sup>

55. It is stated in the 2006 Report that 'it is known that Daniel Morgan was friends with Taffy Holmes, although the true extent of their friendship cannot be determined'.<sup>60</sup>

56. The 2006 Report should not have stated that 'it is known that Daniel Morgan was friends with Taffy Holmes'. It should have acknowledged that there were limited conflicting accounts as to whether DC Alan Holmes was known to, or was a friend of, Daniel. However, the conclusion made by the 2006 Report that there was no evidence to link the death of DC Holmes to the death of Daniel Morgan was reasonable.

57. After the rejection of the first version of the report, the 2006 Report included additional text within this section, stating:

*'There can be little doubt that this was a time when corruption in certain parts of the MPS [Metropolitan Police Service], particularly the specialist squads, was endemic. It was only in the mid to late 90s that the true extent of the nature of the corrupt activity came to light and positive action taken to address the issues, both directly and allied with a proper preventive strategy. It is fair to say that the MPS had taken its collective eye off the ball in the 1980s and the result was squads within squads and an appalling level of dishonest activity. This is not something that the MPS can be proud of.'*<sup>61</sup>

## 4.2 The conclusions drawn in the 2006 Report as to motive

58. The 2006 Report stated in conclusion that:

*'there is overwhelming evidence to suggest that the true motive was a combination, which caused the relationship between Daniel Morgan and Jonathon [sic] Rees to break down and ultimately led to his murder.*

*'The Metropolitan Police is now, through the ongoing investigations, in possession of information, which has in some way been supported by evidence, that Daniel Morgan's murder was not, as has been described, an "Assassination" by a professional "Hitman" but instead a murder borne out of personal issues and resentment and committed by people known to him.*

57 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p177, para 104, 07 April 2006.

58 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p177, para 108, 07 April 2006.

59 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p178, para 111, 07 April 2006.

60 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p178, para 109, 07 April 2006.

61 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p178, para 109, 07 April 2006.

*'This information that currently exists, which is supported by some evidence, identifies the killer to be Glen [sic] Vian, the brother in law of Jonathan Rees. It is apparent that he was supported by Jimmy Cook, who was present at the time of the killing and drove the getaway car afterwards.*

*'The identification of Rees as the prime suspect with his brother in law Glen [sic] Vian, who were both involved with Belmont Car Auctions, supports the theory that the murder was motivated out of personal issues and reduces the probability that it was connected to high level police corruption or robbery.'*<sup>62</sup>

*'In terms of his murder being related to police corruption, there was more than enough of that permeating around Belmont Car Auctions and Sid Fillery for there to be some substance attached, but not to any other aspects of corruption identified.'*<sup>63</sup>

59. The 2006 Report examined many possible motives, including the 'growing distrust and dislike' and financial difficulties between Jonathan Rees and Daniel Morgan, the Belmont Car Auctions civil action and the potential damage which this action may have brought to Southern Investigations, the growing conflict between Daniel Morgan and Jonathan Rees leading to Daniel Morgan seeking ways to end the partnership arrangements, and the possibility that Margaret Harrison was in a relationship with both of them at the time of Daniel Morgan's death. Some of these lines of enquiry required further examination. However, the Panel acknowledges the limited time frame with which the authors of the 2006 Report were faced.

60. The deteriorating relationship between Daniel Morgan and Jonathan Rees could have formed a motive, or at least part of a motive, for the murder. However, while previous investigations may have identified suspects in the murder who were believed to be acting from personal motives, this did not necessarily preclude police involvement in the murder of Daniel Morgan or in attempts to frustrate the investigation of the murder.

### 4.3 The assessment of the Morgan One Investigation in the 2006 Report in the light of the 'standards of the time'

61. After a two-page summary of the circumstances of Daniel Morgan's murder, the 2006 Report provided an assessment of the Morgan One Investigation. The Commissioner was required to provide 'a comprehensive account of the [Morgan One] investigation and its weakness' which included, but was explicitly not limited to, 'the possibility of the investigation being compromised'.<sup>64</sup> The issue of compromise was framed in the context of DS Sidney Fillery's role in the Morgan One Investigation and the extent to which other officers sought to protect him.

<sup>62</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp178-179, paras 112-115, 07 April 2006.

<sup>63</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p179, para 117, 07 April 2006.

<sup>64</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p160, para 4, 07 April 2006.

62. The '*comprehensive account*' of the Morgan One Investigation required by the Metropolitan Police Authority Terms of Reference was contained in 59 paragraphs across 11 pages of the 2006 Report. It opened with a comparative assessment of standards applicable to murder investigations between 1987 and in 2006, the involvement of DS Sidney Fillery in the Morgan One Investigation, and D/Supt Douglas Campbell's attendance at the scene of Daniel Morgan's murder:

*'The ways in which murder or suspicious deaths are investigated now are substantially different from how they would have been dealt with in 1987. By trying to identify what occurred without using hindsight as a tool, one can form the view that this investigation, had it not been subject to the involvement of Fillery, would have been of an average and, perhaps, acceptable standard for the time. As stated later in this report, the staffing levels were adequate and appear, even by today's standards, to have been a proportionate response to such a crime.'*<sup>65</sup>

63. The 2006 Report went on to state:

*'Describing it of an average standard means that there was no great sophistication behind the approach taken. The SIO [Senior Investigating Officer] identified specific lines of enquiries and his officers were tasked to complete allocated actions. There was no great science behind this form of investigation. Nor was any officer specially trained or accredited, unlike today's standards. In general they were solved through the identification of fingerprints, witnesses or intelligence given by informants.'*<sup>66</sup>

64. The assertion in the 2006 Report that, had former DS Sidney Fillery not been involved in the investigation, the investigation would have been of '*an average and, perhaps, acceptable standard for the time*', was inaccurate and presented a misleading picture to the Metropolitan Police Authority and members of Daniel Morgan's family. There were multiple other investigative failures which could not be attributed to DS Fillery, such as the failure to manage exhibits properly and to search and secure the crime scene properly on the night of the murder (see Chapter 1, The Morgan One Investigation).

65. Relying on information from the Hampshire/Police Complaints Authority Investigation, the 2006 Report stated that '*a total of twenty-one Police personnel attended the scene and this number included Scenes of Crime Officers and Photographers*'.<sup>67</sup> It added that none of the officers who had been present at the Golden Lion public house on 09 March 1987 (the day before the murder) attended the murder scene, and that '*[t]his reduced the probability that any corrupt or dishonest activity occurred that could have affected the integrity of the scene*'.<sup>68</sup>

65 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p182, para 134, 07 April 2006.

66 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p182, para 135, 07 April 2006.

67 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p183, para 141, 07 April 2006.

68 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p183, para 141, 07 April 2006.

66. The Panel has seen evidence that the Morgan One Investigation's list of those who attended the murder scene is incomplete. While none of the officers who were present at the Golden Lion public house on 09 March 1987 was recorded as having attended the scene of Daniel Morgan's murder, this does not preclude the possibility that they did attend, or that they were able to influence other officers who attended. It cannot therefore be concluded that certain officers definitely did not attend the murder scene and that '*[t]his reduced the probability that any corrupt or dishonest activity occurred that could have affected the integrity of the scene*'.

67. The 2006 Report quoted from the report by DCS Alan Wheeler, Senior Investigating Officer of the Hampshire/Police Complaints Authority, in relation to the police responding to the scene of Daniel Morgan's murder:

*'The response of the Officers was in accordance with what would be expected of Police Officers responding to such an incident. No evidence has been obtained to support the proposition of Police interference with the scene. The scene was safe guarded for examination.'*<sup>69</sup>

68. The 2006 Report went on to state that:

*'[w]ithout the reliance on the Hampshire report, it would be impossible to pass comment about the thoroughness or otherwise of the scene examination. The approach in 1987 would be substantially different now owing to the existence of new and more sensitive forensic techniques such as DNA.'*<sup>70</sup>

69. DCS Alan Wheeler was wrong in stating that the murder scene was safeguarded during the night after the murder. It was not. This was a major mis-statement by DCS Wheeler, and the authors of the 2006 Report should have recognised and rectified the error, rather than confirming it.

70. The 2006 Report noted organisational reforms within the Metropolitan Police in relation to investigating murders, and the establishment of a Homicide Command, which was responsible for the investigation of murders in London. It noted that, in 1987, it was standard practice to involve Divisional Crime Squads (such as the Catford Crime Squad) in the early stages of major investigations for a limited period.<sup>71</sup>

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69 Report by DCS Alan Wheeler to Roland Moyle (Police Complaints Authority), '*Murder of Daniel John Morgan*', MPS060685001, p65, para 143, 04 September 1989.

70 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p184, para 144, 07 April 2006.

71 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp182-183, para 138, 07 April 2006.



71. There were major reforms to police practice in murder investigations between 1987 and 2006. However, by 1987 the Metropolitan Police had established clear standards governing the conduct of officers responding to the scene of a murder or suspicious death. There were also established standards for handling exhibits and for administrative procedures in Major Incident Rooms. The Morgan One Investigation did not meet these standards, but the 2006 Report failed to reflect this position, thus accepting the incorrect assurances of the Hampshire/Police Complaints Authority report by DCS Alan Wheeler without question.

72. There was no comprehensive account in the 2006 Report of the Morgan One Investigation and its weaknesses as required by the Metropolitan Police Authority's Terms of Reference. The 2006 Report did not comment on a number of matters of concern relating to the integrity of the conduct of the Morgan One Investigation and should have identified the operational weaknesses in the Metropolitan Police systems which would have been apparent from an analysis of the investigation papers.

The 2006 Report was not an independent review but was intended to be a summary of actions undertaken by the Metropolitan Police, and the authors of the 2006 Report had neither adequate time nor resources for such a thorough task. However, the Metropolitan Police failed to ensure that the report provided to the Metropolitan Police Authority was compliant with its Terms of Reference.

#### ***4.3.1 The 2006 Report's account of the role of DS Sidney Fillery in the Morgan One Investigation***

73. As stated above, DS Sidney Fillery's role in the Morgan One Investigation was noted as a specific issue in the Metropolitan Police Authority Terms of Reference. The 2006 Report devoted eight of the 11 pages of an overall assessment of the Morgan One Investigation to DS Fillery's role.<sup>72</sup>

74. The 2006 Report stated that from 09 March 1987 the Catford Crime Squad, under the leadership of DS Sidney Fillery, *'were available for immediate further deployment'* having just completed their involvement in a previous murder investigation.<sup>73</sup> The report added that this *'may be significant in terms of Morgan's presence at the Golden Lion Public House on 9th March'*, the day before the murder. Following the rejection of the first version of the report, the 2006 Report also stated:

*'Whilst this report will often question the role and involvement of Fillery in this case, the fact that he was assigned should not be seen as either unusual or suspicious. They [Catford Crime Squad] had just finished a murder enquiry and they were (the Divisional Crime Squad) the first port of call, in terms of resources, for the next case.'*<sup>74</sup>

72 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp181-192, 07 April 2006.

73 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p183, para 139, 07 April 2006.

74 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p183, para 139, 07 April 2006.

75. The 2006 Report stated that:

*'Fillery played what could be considered a significant role in the early stages of the investigation. The extent of his involvement is open to speculation but there are certain things that have been confirmed since, namely his involvement with Jonathon [sic] Rees.'*<sup>75</sup>

76. The 2006 Report also stated that DS Sidney Fillery withheld from the Morgan One Investigation the extent of his friendship with Jonathan Rees (see Chapter 1, The Morgan One Investigation). It outlined DS Fillery's involvement in taking Jonathan Rees to the mortuary to identify Daniel Morgan's body and taking a witness statement from Jonathan Rees, *'which was brief and contained no useful background information'*.<sup>76</sup> Following the rejection of the first version of the report, the 2006 Report included further comment about DS Sidney Fillery:

*'By the standards of the day, there appears to have been considerable effort put in to determining what Fillery may or may not have done. He was, after all, investigated, arrested and interviewed under caution. Could more have been done? Possibly yes and certainly in today's world, a great deal more would have been done, particularly around technical attacks and other proactive opportunities.'*<sup>77</sup>

77. In relation to a Belmont Car Auctions file, which was alleged to have been removed by DS Sidney Fillery during a search of Southern Investigations' offices the day after the murder, the 2006 Report stated:

*'Fillery was present when the search was conducted at the offices of Southern Investigation [sic] and there is little doubt that at some point he took possession of the Belmont Car Auctions file before part of it was eventually handed in to the investigation. It is not known and cannot now be ascertained whether he was responsible for the concealment or destruction of any further evidence, but we must be open to the possibility that he was.'*<sup>78</sup>

78. A number of reflections and theories arising from DS Sidney Fillery's involvement in the Morgan One Investigation were contained within the 2006 Report, including the following:

- a. *'What further involvement Fillery had with the investigation is difficult to determine, anecdotal information suggests that he was always there or thereabouts';*<sup>79</sup>
- b. *'As a supervising officer he was present at almost all briefings thus knew the full extent of the lines of enquiries that were being identified or developed';*<sup>80</sup>
- c. *'During the 2002 re-investigation, the Deputy SIO Alan [sic] Jones (now retired) of the original investigation was interviewed and recalled after every briefing Fillery went straight out and made one or more telephone calls. He believed these were to Rees but this cannot now be proved';*<sup>81</sup>

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75 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p184, para 145, 07 April 2006.

76 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p184, para 147, 07 April 2006.

77 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p184, para 146, 07 April 2006.

78 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp184-185, para 148, 07 April 2006.

79 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p185, para 149, 07 April 2006.

80 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p185, para 150, 07 April 2006.

81 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p185, para 150, 07 April 2006.

- d. *'Fillery would have been in a position to inform Rees of the lines of enquiry that would have been pertinent to him and allow the early destruction of evidence which could implicate him in the murder';*<sup>82</sup>
- e. *'There is no doubt that Sid Fillery compromised the initial investigation. The extent to which Fillery damaged the investigation is unknown and must therefore, for the purpose of this report, be left open to objective speculation';*<sup>83</sup>
- f. *'There is no suggestion that Fillery was involved in the murder act itself';*
- g. *'However, Fillery's association and relationship with Rees and his involvement in corrupt and illegal practices cannot and should not be dismissed. It is not therefore possible to discount the possibility that at some stage, before or after the murder, Fillery knew exactly what was happening';*<sup>84</sup> and,
- h. *'The murder occurring both at a time when Fillery would have been available to work on the enquiry and at a location within the Catford Policing area is difficult to disregard as a mere coincidence. However, [...] there are perfectly plausible explanations for his presence on this particular murder.'*<sup>85</sup>

79. In conclusion, the 2006 Report stated:

*'During the 2002 investigation the MPS [Metropolitan Police Service] were open to the suggestion that the role-played [sic] by Fillery may have been significant, either in the murder or the events after it. However, no evidence was obtained that would prove or more importantly disprove any belief.'*<sup>86</sup>

*'There was a significant resolve by the initial investigation to arrest and charge those responsible for Daniel Morgan's murder. It would be unfair to use the hindsight tool as to what could or should have been done by way of identifying weakness in the capability of the then murder squad.'*<sup>87</sup>

80. The suggestion in the 2006 Report that it would be 'unfair' to use 'the hindsight tool' in relation to 'weakness in the capability of the then murder [investigation]' was wrong. It is not necessary to use hindsight to identify fair criticism of the conduct of the Metropolitan Police in this matter.

81. The 2006 Report continued:

*'They could have adopted many different lines of enquiry, but in essence having removed an obstacle to success they quickly identified Rees as the prime suspect and arrested him, along with his brothers in law the Vians and Fillery.'*<sup>88</sup>

82 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p185, para 151, 07 April 2006.

83 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p186, para 157, 07 April 2006.

84 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p187, paras 164-165, 07 April 2006.

85 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p189, para 175, 07 April 2006.

86 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p190, para 183, 07 April 2006.

87 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p190, para 184, 07 April 2006.

88 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p190, para 185, 07 April 2006.

*'Viewing it from what we now know, Detective Superintendent Campbell was not far from the truth. Sadly to prove their suspicions they needed evidence but the initial weakness in the investigation had probably led to that being destroyed and no longer available.'*<sup>89</sup>

*'That weakness was the presence of Detective Sergeant Fillery on the murder investigation and his corrupt relationship with the prime suspect Jonathon [sic] Rees.'*<sup>90</sup>

82. Although the 2006 Report concluded that the presence of DS Sidney Fillery on the Morgan One Investigation was the 'weakness' which had probably led to evidence being destroyed, the Panel has not seen evidence capable of proving that DS Fillery 'destroyed' evidence of criminality.

83. The 2006 Report's emphasis on the presence of DS Sidney Fillery on the Morgan One Investigation had the effect of limiting the impact on the Metropolitan Police's reputation by focusing only on one 'bad apple'. The Panel does not agree that the presence of DS Fillery was the only weakness of the Morgan One Investigation.

84. The 2006 Report continued:

*'It was beyond any reasonable comprehension, then, as it would be now, despite having measures in place, to think that a Police Officer could have been involved and working against the direction of the enquiry and the interests of the family by destroying evidence or giving the suspects an advantage through informing them of intended police action. However, it would be foolhardy to suggest that such a set of circumstances could not be replicated today.'*<sup>91</sup>

85. The statement beginning '[i]t was beyond any reasonable comprehension' indicates a mindset which should not have existed. The fight against police corruption must always involve a consciousness of the fact that police officers may act corruptly, and it should not be beyond 'reasonable comprehension' that an officer might act in a corrupt manner.

The statement '[h]owever, it would be foolhardy to suggest that such a set of circumstances could not be replicated today', was only added following the rejection of the first version of the 2006 Report by the Metropolitan Police Authority.

89 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp190-191, para 186, 07 April 2006.

90 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p191, para 187, 07 April 2006.

91 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp191-192, para 191, 07 April 2006.

#### 4.4 The coverage of the Inquest into Daniel Morgan's death in the 2006 Report

86. The Metropolitan Police Authority required the Metropolitan Police to account for the extent to which the Inquest was '*reliant upon the products of the first MPS [Metropolitan Police Service] investigation and therefore crippled by any identifiable weaknesses in that investigation (not least in relation to forensic evidence relating to the murder weapon and the integrity of the crime scene)*'.<sup>92</sup>

87. The 2006 Report noted the '*minimal influence*' of the police on the Coroner, stating that the final decision as to which witnesses should be called '*was that of the Coroner and once witnesses gave evidence, the police had minimal influence over the proceedings or what would have been asked of the witnesses giving evidence*'.<sup>93</sup>

88. The report made no reference to a number of matters, such as the challenge, put forward by Counsel representing Daniel Morgan's family and Counsel representing Jonathan Rees, to the presentation of forensic matters to the Coroner (see Chapter 2, The Inquest). The 2006 Report also stated that '*[d]etails of the crime scene and the forensic evidence were introduced [...] without any contention*'.<sup>94</sup> This is incorrect.

89. D/Supt Douglas Campbell briefed the Coroner on the investigation, and provided reports indicating lines of enquiry and the primary direction of the investigation, including lists of witnesses and statements (see Chapter 2, The Inquest). The Coroner had broad discretion concerning many aspects of the Inquest proceedings, including who should appear as a witness. However, based on the lack of resources to examine the whole of the Morgan One Investigation, the Coroner was reliant upon D/Supt Douglas Campbell's briefing, which provided the names of witnesses to call. In practice the Coroner was, inevitably, significantly influenced by the direction and focus of the Morgan One Investigation, rather than being subjected to '*minimal influence*' as stated in the 2006 Report.

#### 4.5 The 2006 Report's coverage of the Hampshire/Police Complaints Authority Investigation

90. The Metropolitan Police was required to provide an explanation of '*[t]he extent to which the terms of reference of the [Hampshire/Police Complaints Authority] investigation were changed whereby its focus was shifted away from its original purpose of investigating police involvement in the deceased's murder*'.<sup>95</sup> In addition, it was tasked with providing an explanation of '*the extent to which the report of the investigation to the PCA [Police Complaints Authority] on the question of police involvement in the murder was misleading in its findings, not least in relation to forensic evidence relating to the murder weapon and the integrity of the crime scene*'.<sup>96</sup>

92 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p160, para 5, 07 April 2006.

93 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p192, para 194, 07 April 2006

94 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p194, para 208, 07 April 2006.

95 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p194, para 210, 07 April 2006.

96 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p195, para 210, 07 April 2006.



91. The 2006 Report set out its analysis of the Hampshire/Police Complaints Authority Investigation in five pages. The report stated:

*'Owing to the alleged involvement of police in Morgan's murder being reported upon by the media on 24th June 1988, the Commissioner of the Metropolitan Police referred the matter for supervision by the Police Complaints Authority under Section 88, Police and Criminal Evidence Act 1984.*

*'On 24th June 1988, Hampshire Constabulary was appointed by the Metropolitan Police to investigate certain aspects surrounding the murder of Daniel Morgan under the supervision of the Police Complaints Authority. The head of Hampshire Criminal Investigation Department, Detective Chief Superintendent Alan Wheeler, was designated as the Senior Investigating Officer.*

*'The terms of reference for the Investigating Officer were:- **"To investigate allegations that Police were involved in the murder of Daniel Morgan and any matters arising therefrom"** [emphasis in original].*

*'There is no indication or evidence that can be found that, once initially agreed, the Terms of Reference were ever changed. Officers from Hampshire were interviewed during the 2002 investigation and when this was suggested it was denied in the strongest possible terms.'<sup>97</sup>*

92. The Panel has not seen any evidence of a change to the written Terms of Reference devised by the Police Complaints Authority. However, there was a change in the way these Terms of Reference were interpreted, as DCS Alan Wheeler moved towards a reinvestigation of the murder as opposed to restricting his work to a focus on police involvement in the murder (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

93. The Panel requested from the Abelard One/Morgan Two Investigation the records of its interviews of Hampshire Constabulary police officers who had been involved in the Hampshire/Police Complaints Authority Investigation. No records could be found. It is therefore not possible to comment on the accuracy of the assertion that Hampshire police officers denied that there was any change to the Hampshire/Police Complaints Authority Terms of Reference.

94. There was no full analysis in the 2006 Report of the circumstances regarding the alleged changes to the Terms of Reference for the Hampshire/Police Complaints Authority Investigation. There was a failure in the 2006 Report to identify clearly the changes in the way in which the Hampshire/Police Complaints Authority Investigation's Terms of Reference and DCS Alan Wheeler's remit were interpreted, indicating that the Hampshire/Police Complaints Authority Investigation had not been '*examined in depth*', as was later claimed in the 2006 Report. However, it is acknowledged that the authors of the 2006 Report were faced with a limited time frame and limited resources for a full analysis.

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<sup>97</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p195, paras 211-214, 07 April 2006.

#### 4.5.1 The focus of the Hampshire/Police Complaints Authority Investigation

95. The 2006 Report stated the following in the context of the focus of the Hampshire/Police Complaints Authority Investigation:

*'It was the view of Mr Wheeler, that his enquiry might produce additional evidence, which would enable charges to be preferred in connection with the murder. This approach was key when developing the direction and lines of enquiry that Hampshire intended to take.*

*'This would have been a natural approach to adopt, for although it was specifically tasked to look at "Police Involvement" it would have been criticised if it had not consider [sic] the potential involvement of other parties.*

*'The investigation was independent. Once the terms of reference were agreed, Hampshire had autonomy to decide what to do and how. It was resourced purely with Hampshire staff and situated in Fareham.*

*'No information or evidence has been found which would suggest that Hampshire acted anything other than independent of the Metropolitan Police. However, it would still have required access to information held by the MPS [Metropolitan Police Service], their staff and their environment. This would be entirely normal and is to be expected.*

*'To assist with this, Detective Superintendent Alan Lewis of the MPS Complaints Investigation Bureau was appointed as Liaison Officer although not initially seconded to Hampshire.*

*'However once the decision to arrest and charge persons in connection with the murder was made, his secondment was officially requested because ultimately, this was a Metropolitan Police crime, albeit being investigated by Hampshire. No evidence can be found that he in any way inappropriately influenced the direction of Hampshire.'<sup>98</sup>*

96. The 2006 Report concluded that the Hampshire/Police Complaints Authority Investigation was independent. In January 2021, former DCS David Cook stated to the Panel that his understanding in 2006, was that Hampshire Constabulary was appointed by the Metropolitan Police to investigate certain aspects surrounding the murder of Daniel Morgan under the supervision of the Police Complaints Authority and that it was independent. However, the Hampshire/ Police Complaints Authority Investigation was carried out on behalf of, and in liaison with, the Metropolitan Police (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). A senior Metropolitan Police officer was granted access to the whole investigation. While the appointment of a liaison officer is normal and good practice, D/Supt Alan Lewis's role went further, to the extent that decisions were made in consultation with him, and he charged those arrested in connection with the murder. This is not normal in an independent investigation. Additionally, in an interview with the Panel, former DCS Alan Wheeler stated that he reported to the Metropolitan Police and the Police Complaints Authority and that he regarded himself as working on behalf of the Metropolitan Police on a Metropolitan Police matter.<sup>99</sup>

<sup>98</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp195-196, paras 215-220, 07 April 2006.

<sup>99</sup> Panel interview with former DCS Alan Wheeler, PNL000205001, p2, 24 March 2015.

97. Regarding a change in focus of the Hampshire/Police Complaints Authority Investigation, the 2006 Report stated:

*'The Hampshire investigation has been examined in depth and it is difficult to identify the point at which the focus of attention changed from Rees and the police officers to Rees, Paul Goodridge and his girlfriend Jean Wisden.'*<sup>100</sup>

98. It is not difficult to identify a clear moment in the Hampshire/Police Complaints Authority Investigation where the focus of the investigation changed. The disclosed materials reveal that this focus changed on or shortly before 14 November 1988. This can be found in entry number 19 of DCS Alan Wheeler's policy file, which stated *'the investigation is to concentrate on the alibi of Paul Goodridge and John Rees for night of 100387 this is to be treated with utmost secrecy, dated 141188'*.<sup>101</sup> Senior Investigating Officers' policy documents are fundamental to the effective administration of a murder investigation, subsequent review and audit, and these events should have been identified by the authors of the 2006 Report.

99. The 2006 Report stated that the Hampshire/Police Complaints Authority Investigation had developed a *'mindset'* following the identification of Jonathan Rees and Paul Goodridge as the suspects for Daniel Morgan's murder, and that it was *'impossible to determine'* whether the Hampshire police officers had any evidence or information about the involvement of police and particularly DS Sidney Fillery in the murder: *'All their efforts were eventually directed towards the prosecution of [Jonathan] Rees, [Paul] Goodridge and [Jean] Wisden.'*<sup>102</sup>

100. In fact, the Hampshire/Police Complaints Authority Investigation had considered evidence implicating former DS Sidney Fillery in the murder, and information received from a Metropolitan Police Constable in 1987, suggesting that former Police Officer Z31 should be considered as a possible suspect for the murder of Daniel Morgan. At that time former Police Officer Z31 had been awaiting trial for assaulting six off-duty police officers in Richmond. He had also fitted the description of a man wanted for a serious assault on a young girl on a train. More significantly, he had been wanted for assaulting a man with an axe (see Chapter 3, Hampshire/Police Complaints Authority Investigation).

101. The 2006 Report was incorrect in stating that it was *'impossible to determine'* whether the Hampshire Constabulary officers had any evidence or information about the involvement of police and particularly DS Sidney Fillery. Had the authors of the 2006 Report considered the records of the Hampshire/Police Complaints Authority Investigation in more detail, they would have established that that investigation had considered the evidence relating to former DS Sidney Fillery and to former Police Officer Z31 referred to above (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

<sup>100</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp195-196, paras 215-221, 07 April 2006.

<sup>101</sup> Senior Investigating Officer Policy document, Operation Drake, MPS035201001, p3, 14 November 1988.

<sup>102</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p197, paras 223-225, 07 April 2006.

102. The 2006 Report continued:

*'This potentially had a detrimental effect on the outcome of the independent investigation and as such it could be said that it failed to meet the initial Terms of Reference.'*<sup>103</sup>

103. The conclusion of the 2006 Report that the Hampshire/Police Complaints Authority Investigation could be said to have failed to meet its initial Terms of Reference is accurate. It focused on Jonathan Rees, Paul Goodridge and Jean Wisden to the detriment of considering the possible involvement of police officers in the murder, and the potential corruption of the initial murder investigation (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

#### **4.5.2 Charging decisions in the Hampshire/Police Complaints Authority Investigation**

104. The 2006 Report stated that the decision to charge Jonathan Rees, Paul Goodridge and Jean Wisden *'possibly prevented Hampshire from continuing with an objective approach to the aspect of possible police involvement in the murder'*.<sup>104</sup>

105. The report continued, *'[i]t was widely accepted at the time that Hampshire had identified the people responsible'*, and that it was *'insufficiency of evidence that prevented the prosecution from being pursued'*.<sup>105</sup>

106. In its assessment, the report stated the following:

*'The fact is, based on what we now know, had the prosecution gone ahead and been successful then the conviction of Paul Goodridge and Jean Wisden would have amounted to a miscarriage of justice. Rees, had he also been convicted, would no doubt have benefited from this with the probability of his conviction being quashed which, until recent changes in the double jeopardy rule, would have precluded any further investigation into him for the murder.'*<sup>106</sup>

107. The Panel has established the sequence of events which developed following the arrests by DCS Alan Wheeler of Jonathan Rees, Paul Goodridge and Jean Wisden, culminating in the civil action by Paul Goodridge. This was settled *'out of court'* on the basis that Hampshire Constabulary accepted that Paul Goodridge was charged with murder *'without reasonable and probable cause'* but that he accepted that this was not done maliciously (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

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103 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p197, paras 224-226, 07 April 2006.

104 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p197, para 227, 07 April 2006.

105 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p197, para 228, 07 April 2006.

106 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp197-198, paras 227-229, 07 April 2006.

108. The 2006 Report stated it *'was widely accepted at the time'* that the Hampshire/Police Complaints Authority Investigation had identified the people responsible for Daniel Morgan's murder but there was insufficient evidence on which to prosecute those who were arrested. The extent to which this was *'widely accepted'* is not explained in the 2006 Report. There is no evidence to implicate Paul Goodridge or Jean Wisden in the murder.

#### 4.5.3 The Report of the Hampshire/Police Complaints Authority Investigation

109. The Hampshire/Police Complaints Authority Investigation resulted in a final report which was submitted in September 1989 to the Police Complaints Authority. The Police Complaints Authority issued a statement of satisfaction with the investigation on 12 February 1990. The 2006 Report stated that, after this:

*'[t]he Morgan family were informed by letter dated 27th March 1990 that the investigation had revealed "no evidence of involvement by any police officer in the murder of Daniel" and "no evidence to suggest that any member of the murder investigation team took deliberate action to prevent the murder being properly detected".'*

*'Taking into account this comment and what has already been written, it may be difficult to suggest that any evidence can be found that the Hampshire report to the Police Complaints Authority contained anything that was in any way deliberately misleading. It was, after all, based on their knowledge, actions and beliefs at the time which arose as a result of their investigation. A lot of what is now known came after their enquiries had been completed.'*

*'Hampshire's findings have now been somewhat undermined through the efforts made to pursue a conviction of Goodridge and Wisden and in light of what is now known. Yet it was the first and only external review conducted and there is still material within their report which supplies good background knowledge that can still be relied upon.'*<sup>107</sup>

110. During the Hampshire/Police Complaints Authority Investigation two reports were produced: the report by PS John Riddell, a HOLMES (police database) specialist with the Hampshire Constabulary, which addressed administration issues and the operation of the Major Incident Room in the Morgan One Investigation;<sup>108</sup> and the report by DCI Terence Farley, Head of the Scenes of Crime Department of Hampshire Constabulary, which reviewed forensic aspects of the Morgan One Investigation.<sup>109</sup> These reports brought important matters to the attention of DCS Alan Wheeler, but they were not reflected in his final investigation report.

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<sup>107</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp198-199, paras 234-236, 07 April 2006.

<sup>108</sup> Report by PS John Riddell, MPS022494001, 28 July 1988.

<sup>109</sup> Report by DCI Terence Farley, *'Enquiries into the forensic aspect of the original investigation of the murder of Daniel Morgan'*, MPS005270001, 19 January 1989.



111. There was no evidence in the 2006 Report of a systematic review of the report by DCI Terence Farley or the report by PS John Riddell, and the Panel has seen no evidence that these reports were looked at. Rather, there was heavy reliance in the 2006 Report on DCS Alan Wheeler's investigation reports to the Crown Prosecution Service and Police Complaints Authority, which the Panel has found were not in themselves full and accurate depictions of the totality of the Hampshire/Police Complaints Authority Investigation (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

112. The reliance in the 2006 Report on DCS Alan Wheeler's investigation reports may have been due to the limited resources allocated by the Metropolitan Police and the tight time frame for presentation of the report. Nonetheless, the assessment of the Hampshire/Police Complaints Authority Investigation in the 2006 Report is deficient, as it relied only upon DCS Wheeler's investigation reports. There was no material which derived from any source other than DCS Wheeler's investigation reports.

#### 4.6 Coverage of subsequent reviews and reinvestigations in the 2006 Report

113. The 2006 Report explained that, following the Morgan One and Hampshire/Police Complaints Authority investigations, the Daniel Morgan murder enquiry became a 'cold case' on which further work would be conducted if new information or evidence was identified. It explained that no further 'formal' review was undertaken until 2000,<sup>110</sup> when the 2000 Murder Review occurred, and that '*this arose from the Directorate of Professional Standards' investigation "Operation Two Bridges"*'.<sup>111</sup>

114. The Terms of Reference of the 2006 Report required an explanation of '*[s]ubsequent reviews and re-investigation by the MPS, addressing in particular the circumstances in which the third investigation (The Two Bridges Inquiry) was conducted almost entirely without the knowledge of the deceased's family until it came to be aborted*'.<sup>112</sup>

115. The terms of reference of the 2006 Report wrongly described Operation Nigeria/Two Bridges as a Directorate of Professional Standards' investigation. Operation Nigeria/Two Bridges was an intelligence-gathering operation.

110 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p199, para 239, 07 April 2006.

111 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p199, para 239, 07 April 2006.

112 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p161, para 7, 07 April 2006.

#### 4.6.1 DCS Douglas Shrubsole's review of the investigation in 1987

116. The 2006 Report referred to the review of the Morgan One Investigation conducted by DCS Douglas Shrubsole in 1987:

*'Prior to the Inquest and Hampshire's involvement, Detective Chief Supt Shrubsole of the Metropolitan Police conducted a review of the investigation. This took place between October and December of 1987[.] He examined every action, message and statement relating to the case. He was satisfied, in accordance with the standards that existed, that all reasonable lines of enquiry had been identified and that the investigation was thorough.*

*'This original investigation and initial review were conducted at a time before the MPS [Metropolitan Police Service] had introduced processes such as policy files and decision logs. It is now impossible to verify the decisions and policy made by the murder investigating or review team but it is obvious that the Metropolitan Police identified the Morgan investigation as problematic from the outset.'*<sup>113</sup>

117. Other than his statement, no records relating to DCS Douglas Shrubsole's review have been seen. His conclusions that the Morgan One Investigation was thorough have not been substantiated in any of the documents that the Panel has seen (see Chapter 1, The Morgan One Investigation). An examination of the Morgan One Investigation material in the period up to 04 December 1987 (the time of DCS Shrubsole's review) should have identified many examples of the inadequacy of that investigation. The 2006 Report did not contradict DCS Shrubsole's endorsement of the Morgan One Investigation.

118. The 2006 Report was wrong in saying that there were no policy books for recording decisions in 1987. A policy file was created by D/Supt Douglas Campbell for the Morgan One Investigation.

#### 4.6.2 Disciplinary investigations and Jonathan Rees's complaints against the police

119. The 2006 Report briefly noted the disciplinary investigation of DS Sidney Fillery, DC Alan Purvis and DC Peter Foley in relation to the Belmont Car Auctions matter,<sup>114</sup> and the investigation of the complaints made by Jonathan Rees against the police.<sup>115</sup> Jonathan Rees's complaint had been investigated by DCS David Lamper (see Chapter 1, The Morgan One Investigation). The 2006 Report concluded that *'[n]o further evidence has been identified during the course of these investigations that would have added value to the original enquiry'*.<sup>116</sup>

<sup>113</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp199-200, paras 240-241, 07 April 2006.

<sup>114</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p200, paras 242-243, 07 April 2006.

<sup>115</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p200, para 244, 07 April 2006.

<sup>116</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p200, para 245, 07 April 2006.

120. There is little mention in the 2006 Report of the findings by DCS David Lamper following his investigation of complaints made by Jonathan Rees against many officers involved in the Morgan One Investigation, including D/Supt Douglas Campbell, DI Allan Jones, DC Clive Blake and DS Malcolm Davidson. There was also no account within the 2006 Report of the significant findings made by DCS Lamper in relation to elements of the Morgan One Investigation. Given that the 2006 Report referred to the investigation into the conduct of DS Sidney Fillery, DC Alan Purvis and DC Peter Foley, which was peripheral to the investigation of Daniel Morgan's murder, it should also have acknowledged and outlined the salient facts from the complaint report by DCS David Lamper.

#### **4.6.3 DS Sidney Fillery's retirement from the Metropolitan Police**

121. In relation to DS Sidney Fillery's retirement from the Metropolitan Police, the 2006 Report stated:

*'Detective Sergeant Fillery would probably have been made subject of disciplinary proceedings. However, he avoided this by reporting certificated sick on 9th September 1987 and remained so until 20th March 1988 when he was medically discharged from the Service[...]. He served as a police officer for a total of 22 years and 10 months.*

*'An examination of Fillery's personal medical record by Hampshire revealed that he had been sick on a number of occasions but nothing of a serious nature. There were no periods of sickness, which would tend to indicate a medical problem, which would necessitate medical discharge.'<sup>117</sup>*

122. For the avoidance of doubt, DS Sidney Fillery was in fact subject to a disciplinary investigation, but this was discontinued when he was medically discharged from the Metropolitan Police, and so no disciplinary action could be taken.

#### **4.6.4 Inspector Geoffrey Pierce's 1996 review of lines of enquiry**

123. The 2006 Report detailed an examination of the previous murder investigations that was carried out in 1996 by Inspector Geoffrey Pierce, which identified matters relating to former Police Officer Z31, as an outstanding line of enquiry:

*'In 1996, following pressure from the family of the deceased, in particular Alistair [sic] Morgan, Inspector Pierce of the Complaints Investigation Bureau reviewed all papers and discovered an uncompleted line of enquiry concerning [former Police Officer Z31]. This man was named by two sources and had previous for attacking a recovery agent with an axe.*

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<sup>117</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p201, paras 247-248, 07 April 2006.

*'In April 1996, Detective Chief Inspector Smith from the 4 Area Major Investigation Team examined the case against [former Police Officer Z31]. His enquiries revealed a single source naming [former Police Officer Z31] and only tenuous links with the crime. He recommended 'No Further Action'. However in November 1997, [a Detective Inspector] from 4 AMIT was tasked to make active enquiries into the case against [former Police Officer Z31] who was subsequently arrested but later released without charge.'*<sup>118</sup>

#### 4.6.5 Operation Nigeria/Two Bridges

124. The Terms of Reference required the Metropolitan Police to report on *'the circumstances in which the third investigation (The Two Bridges Inquiry) was conducted almost entirely without the knowledge of the deceased's family until it came to be aborted'*.<sup>119</sup>

125. The 2006 Report stated that:

*'Operation "Two Bridges" arose as a result of intelligence coming to light both from within the Directorate of Professional Standards Directorate [sic] and other intelligence sources.*

*'Through this intelligence a covert evidence gathering operation was established which focussed attention on Fillery and Jonathan Rees's premises at Law and Commercial. This involved the deployment by Police of an evidence gathering "probe" which was deployed with the specific intention of gathering evidence of conversation between Rees and Fillery for the murder of Daniel Morgan and other corrupt activity believed to be in existence in relation to serving and retired police officers.*

*'There were two sides to this operation and they were kept strictly separate for security reasons. The operational team deployed in support were of the belief that it was an investigation into Rees and Fillery's criminality, activity and with a focus on corruption.*

*'However, from a Senior Management perspective, it was viewed both as an investigation into corrupt activities of police, but also an opportunity to gather evidence in relation to the murder of Daniel Morgan.*

*'The operation began well and evidence of murder was starting to emerge. It is not possible to discuss the details of this due to the sensitivities surrounding ongoing enquiries. However, it was quickly sidetracked by the general criminal activity of Rees.'*<sup>120</sup>

126. When reporting on Operation Nigeria/Two Bridges in the 2006 Report, the Metropolitan Police referred to the murder first, and then to the investigation of corruption as an ancillary purpose. The impression was given to Daniel Morgan's family by the 2006 Report that the Metropolitan Police was conducting an investigation into Daniel Morgan's murder. This was not the case (see Chapter 4, Operation Nigeria/Two Bridges).

118 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p201, paras 250-251, 07 April 2006.

119 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p161, para 7, 07 April 2006.

120 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp201-202, paras 252-256, 07 April 2006.

127. The 2006 Report then provided a brief summary of the discovery by Operation Nigeria/Two Bridges of a conspiracy to plant Class A drugs on the wife of a client of Law & Commercial (formerly Southern Investigations) (see Chapter 4, Operation Nigeria/Two Bridges). The discovery of this conspiracy led to an investigation and Operation Nigeria/Two Bridges ended.<sup>121</sup> The 2006 Report also stated that *'useful intelligence had been gained'* during the course of Operation Nigeria/Two Bridges, intelligence which it stated identified James Cook and Glenn Vian as being involved in Daniel Morgan's murder.<sup>122</sup>

128. As discussed in the Corruption chapter (see Chapter 10), other information of criminal activity by two individuals, involving obtaining private telephone information and private financial data by deception for Law & Commercial, had been obtained and investigated during Operation Nigeria/Two Bridges. Neither individual was prosecuted following advice from the Crown Prosecution Service. This was also noted by Len Duvall, who told the Panel that it was his view that the commissioning of the 2006 Report was intended to enable this to be discussed and an explanation to be given,<sup>123</sup> although the Panel notes that this did not form part of the Terms of Reference.

129. The 2006 Report stated that the intelligence gained in Operation Nigeria/Two Bridges was supported by other information, which *'was received on or about the same time and from which one was able to establish both the identity and role played by [James] Cook and [Glenn] Vian'*.<sup>124</sup>

#### 4.6.5.1 Failure to inform members of Daniel Morgan's family of Operation Nigeria/Two Bridges

130. The 2006 Report stated that members of Daniel Morgan's family were not informed of Operation Nigeria/Two Bridges for reasons of operational security: *'[i]t was conducted by the Directorate of Professional Standards who kept strict control over who knew what owing to the links Rees had into corrupt police officers'*.<sup>125</sup> However, the report stated that *'once evidence of criminality started to emerge that suggested a possible impact on Daniel Morgan's murder then discussions with the family took place'* and that:

*'[t]he Morgan family and their solicitor Raju Bhatt of Bhatt Murphy & Co have been constantly briefed on almost all aspects of the case and to a degree, as previously described, the level of information given has been unprecedented.'*<sup>126</sup>

131. Although the 2006 Report stated that members of Daniel Morgan's family were *'constantly briefed on almost all aspects of the case'*, in fact the family were not briefed until after the publication of a *Daily Telegraph* article on 02 July 1999, which was intended to promote discussion among the suspects for the murder of Daniel Morgan. Daniel Morgan's family saw the article without any prior warning or explanation from the police, (see Chapter 4, Operation Nigeria/Two Bridges). They were briefed only after their solicitor contacted the Metropolitan Police, on 15 and 22 July 1999 (see Chapter 12, The Treatment of the Family).

121 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp202-203, paras 256-260, 07 April 2006.

122 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p203, para 260, 07 April 2006.

123 Panel interview with Len Duvall, PNL000252001, p2, para 10, 20 July 2017.

124 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p203, para 261, 07 April 2006.

125 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p204, para 265, 07 April 2006.

126 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p208, para 288, 07 April 2006.



132. The 2006 Report contained a brief conclusion concerning former DS Sidney Fillery, and the allegations of police involvement in the murder, stating *'it has been equally difficult to both prove and disprove police involvement in the murder of Daniel Morgan'*<sup>127</sup> and, referring to ongoing enquiries, that *'[f]or the purpose of operational security these [current enquiries] cannot be discussed in this report'*.<sup>128</sup>

133. The Panel accepts that it would have been inappropriate to discuss in the 2006 Report ongoing enquiries into Daniel Morgan's murder on the basis of operational security.

#### 4.6.5.2 Access to the Hampshire/Police Complaints Authority Report for members of Daniel Morgan's family

134. With reference to the Hampshire/Police Complaints Authority Report, the 2006 Report stated that *'the family had for some time asked for sight of the Hampshire PCA [Police Complaints Authority] report. This was initially resisted by the MPS [Metropolitan Police Service]. However, in 2003, prior to the issue being taken to Judicial Review, the PCA Report was handed over.'*<sup>129</sup>

135. The 2006 Report's reference to resistance *'initially'* was a considerable understatement of the facts. The Metropolitan Police had resisted providing members of Daniel Morgan's family with access to the Hampshire/Police Complaints Authority Report for over 16 years until the family had brought judicial review proceedings and the Metropolitan Police had eventually agreed to hand over the report. On 04 July 2003, the High Court had ordered that disclosure of the report would be made, subject to redactions and conditions. It was only in 2005 after further legal proceedings were proposed that the unredacted report was disclosed – 18 years after the murder of Daniel Morgan.

#### 4.6.6 The 2006 Report's account of the Abelard One/Morgan Two Investigation

136. The 2006 Report presented a detailed account of the Abelard One/Morgan Two Investigation, emphasising that it was the most expensive and resource-intensive reinvestigation that the Metropolitan Police had conducted, costing more than £2 million.<sup>130</sup> Following the rejection of the first version of the report, the 2006 Report added that *'[t]his is a very high figure and reflects the costs associated with only those murders that are categorised as A+, ie, those of the most serious nature where there is grave public concern around the circumstances'*.<sup>131</sup>

127 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p208, para 294, 07 April 2006.

128 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p209, para 296, 07 April 2006.

129 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p208, para 289, 07 April 2006.

130 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p206, para 280, 07 April 2006.

131 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p206, para 280, 07 April 2006.

137. The 2006 Report stated the following:

- a. DCS David Cook (the author of the 2006 Report) was appointed as the Senior Investigating Officer:<sup>132</sup> *'It was initially intended that the Murder Command would support a covert investigation led by the Directorate of Professional Standards. However, this strategy was changed which gave primacy to [DCS David Cook], supported by the [Directorate of Professional Standards].'*<sup>133</sup>
- b. The Murder Command investigation team was handpicked and vetted.<sup>134</sup> To assist with progression of the investigation, the Metropolitan Police made available a reward of £50,000, which was published in an appeal made on *Crimewatch*.<sup>135</sup>
- c. The focus of the investigation was on Glenn Vian, James Cook and former DS Sidney Fillery.<sup>136</sup> The investigation also involved re-interviewing witnesses from the Morgan One Investigation and *'the identification of new information with a view to it being obtained in evidential form'*.<sup>137</sup>
- d. The investigation *'unearth[ed] some new evidence and a substantial amount of new information. [...] This was presented to Treasury Counsel for a view. [DCS Cook's] conclusion was that he was satisfied that we now knew the identity of those responsible for Daniel Morgan's murder but that the evidence available did not meet the threshold to enable a prosecution to be commenced.'*<sup>138</sup> The information gathered could not be produced in evidence as witnesses could not be compelled to give evidence despite *'strenuous efforts'*.<sup>139</sup>
- e. A number of arrests and searches were made during the investigation which led to former DS Sidney Fillery being charged with offences unrelated to Daniel Morgan's murder.<sup>140</sup>
- f. The investigation was under the scrutiny of a Gold Group, which was chaired by Commander Andre Baker, and overseen by DAC Andrew Hayman.<sup>141</sup>
- g. Lawyers from the Crown Prosecution Service had advised on the methodology and evidence-gathering process, so as to strengthen prosecution possibilities.<sup>142</sup>
- h. Proactive investigative initiatives in relation to key suspects had been used but without much success.
- i. While most lines of enquiry had been concluded by 2003, the investigation remained open, with sporadic opportunities being followed up.<sup>143</sup>

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132 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 270, 07 April 2006.

133 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 271, 07 April 2006.

134 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 272, 07 April 2006.

135 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 272, 07 April 2006.

136 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 273, 07 April 2006.

137 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 273, 07 April 2006.

138 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, para 274, 07 April 2006.

139 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p206, para 275, 07 April 2006.

140 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p205, paras 276-279, 07 April 2006.

141 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp206-207, para 281, 07 April 2006.

142 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p207, para 282, 07 April 2006.

143 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p207, para 283, 07 April 2006.

- j. The report emphasised that during the 2002 (Abelard One/Morgan Two) investigation, the family and their solicitor were being constantly briefed and the level of information given was ‘unprecedented’.<sup>144</sup>
- k. Once the findings of the 2002 (Abelard One/Morgan Two) investigation had been reported to the Crown Prosecution Service, and the decision was made not to prosecute, the family had been informed of the decision immediately.<sup>145</sup>
- l. During 2003, the Morgan family asked for sight of the report of the 2002 (Abelard One/Morgan Two) investigation. After deliberation, the family were given a redacted copy subject to conditions on non-disclosure.<sup>146</sup>

138. This is a full synopsis of the Abelard One/Morgan Two Investigation in the Panel’s view. However, it did not identify any failings, problems or unresolved issues with the Abelard One/Morgan Two Investigation, which had been investigated by DCS David Cook, the author of the 2006 Report.

#### 4.7 The 2006 Report’s conclusions concerning the extent of police corruption as it related to the murder of Daniel Morgan and the subsequent investigation

139. The 2006 Report concluded that ‘it has been equally difficult to both prove and disprove police involvement’ in Daniel Morgan’s murder. The report continued:

*‘There is clearly some evidence to suggest that Fillery may have had some involvement but that evidence is not of a standard that has been or can be further substantiated at this time.*

*‘There is, however, clear evidence to suggest that Fillery, in his role as a police officer, acted in a way through which his integrity could be called into question. This was especially so in relation to the early stages of the murder investigation but, as stated, without further evidence or information to assist, the extent of his corrupt involvement can only be subject of speculation.’<sup>147</sup>*

140. The Panel acknowledges that DS Sidney Fillery was explicitly referred to in the 2006 Report’s Terms of Reference, and his involvement in the Morgan One Investigation was examined. The 2006 Report failed to deal with other police corruption such as the presence of a former police officer in the investigation room (see Chapter 1, The Morgan One Investigation).

144 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p208, para 288, 07 April 2006.

145 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p208, para 290, 07 April 2006.

146 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p208, para 291, 07 April 2006.

147 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp208-209, paras 294-295, 07 April 2006.

## 4.8 The 2006 Report's conclusions concerning exhibits and forensics

141. The 2006 Report contained observations about the exhibits gathered and their integrity for evidential purposes, describing them as '*an area of concern*'.<sup>148</sup> The report drew significantly on the 2000 Murder Review's observations on the whereabouts and integrity of the exhibits (see Chapter 5, The 2000 Murder Review) and noted that, at the time of the 2006 Report, a '*full forensic review is currently being conducted*'.<sup>149</sup>

142. The Panel has seen no evidence of a full forensic review being conducted when the 2006 Report was prepared. However, it was correct for concerns over the exhibits to be reflected in the 2006 Report.

## 4.9 The 2006 Report's consideration of the lessons learned by the Metropolitan Police from this case

143. The Terms of Reference required the Metropolitan Police to identify lessons learned from the case. With reference to the Morgan One Investigation into Daniel Morgan's murder, the 2006 Report stated that:

*'[t]he Metropolitan Police Service did in the early stages of this investigation and subsequent years appear to be slow in recognising this as a critical incident and as such [has] been slow to learn from it.'*<sup>150</sup>

144. The 2006 Report referred to a comment made by the Coroner to the Inquest:

*'I have to say here and now that there has been no evidence whatsoever in this Inquest to point to any Police involvement in this killing; nothing that we have heard during this Inquest.'*<sup>151</sup>

145. Further reference is made to DCS Alan Wheeler's report of the Hampshire/Police Complaints Authority Investigation:

*'There is no evidence of wilful action(s) on behalf of any member of the Metropolitan Police Murder Investigation squad to prevent the murder being properly detected.'*<sup>152</sup>

146. The 2006 Report concluded that such comments had provided '*a degree of comfort to the Metropolitan Police by indicating there were no major issues to be addressed, and therefore no substantial learning resulted*'.<sup>153</sup>

148 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p209, para 297, 07 April 2006.

149 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p210, para 305, 07 April 2006.

150 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p211, para 309, 07 April 2006.

151 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p211, para 310, 07 April 2006.

152 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p211, para 310, 07 April 2006.

153 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p211, para 311, 07 April 2006.

147. The Panel agrees with the 2006 Report's conclusion that the Metropolitan Police took comfort from the Coroner's and DCS Alan Wheeler's comments and so learned nothing substantial. However, this comfort was misplaced. Had they looked further, there was ample evidence of failings during the investigations from which lessons could have been learned.

148. Several reforms and changes to police practice since Daniel Morgan's murder in 1987 were identified in the 2006 Report. Some were attributed to lessons learned in the Daniel Morgan investigations, many others *'to other murder investigations, especially that of Stephen Lawrence'*.<sup>154</sup> These comprised:

- *'The development of a comprehensive Murder Review Process*
- *The development and introduction of Decision Logs and Policy Files*
- *The first actions at the scene of a serious crime*
- *The identification and management of critical incidents*
- *The detailed forensic examination of major crime scenes, use of cordons and taking into account modern forensic investigative capabilities*
- *The introduction of a proactive and highly skilled Anti-Corruption Command*
- *The development and introduction of an Anti-Corruption Strategy*
- *Our approach towards the family of murder victims such as close liaison and informing them of events*
- *The development and introduction of Homicide Commands, dedicated teams who have an expertise in investigations of this nature*
- *The training of Senior Investigators through the national SIO [Senior Investigating Officer] development and accreditation programme*
- *The training of all investigators through the Professionalising the Investigative Process Programme*
- *The development and introduction of the Independent Advisory Groups and their involvement in Gold Groups pertinent to this form of enquiry.*<sup>155</sup>

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154 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp211-212, para 312, 07 April 2006.

155 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p212, para 313, 07 April 2006.



149. In conclusion, the 2006 Report stated:

*'The Metropolitan Police Service is acutely aware of the damage caused to its reputation and the subsequent stress borne by the family as a result of this flawed investigation. The organisation is determined to do everything within its capability to put this right and ensure that any learning from this or other cases is captured and disseminated as widely as possible.'*<sup>156</sup>

150. Some of the developments cited in the 2006 Report as occurring after 1987 in response to a number of cases including Daniel Morgan's murder, in fact existed before 1987. Procedures for first actions at the scene of a crime and the use of decision logs and policy files were in existence and were common practice at the beginning of the investigation into Daniel Morgan's murder. Some changes to police practice listed in the 2006 Report were a result of general developments in national policy relating to investigations of murder and other major crimes. The effect of listing them in the report was to exaggerate the extent of change which could be attributed to lessons learned by the Metropolitan Police from Daniel Morgan's murder, as opposed to other murder investigations and general development.

151. In preparing the 2006 Report, the Metropolitan Police did not undertake a full examination and analysis of the information available at the time. Such analysis may not have been possible within the time frame given to prepare the 2006 Report. However, as a consequence, there was a failure to recognise, and a resulting inability to learn from, all the failings, systemic and individual, which such an examination should have identified.

## 5 Reception and rejection of the first version of the 2006 Report

### 5.1 The provision of the first version of the 2006 Report to the Metropolitan Police Authority and 'a new lead'

152. It has been noted earlier in this chapter that the first version of the 2006 Report was submitted on 31 January 2006. DAC John Yates' letter which accompanied the report recommended that it should not be made public. DAC Yates explained that publication could compromise a further investigation prompted by a new line of enquiry, of which Len Duvall was aware, involving a new witness who was prepared to give 'Queen's Evidence'.<sup>157</sup>

<sup>156</sup> Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp212-213, para 315, 07 April 2006.

<sup>157</sup> Letter enclosing Report to the Metropolitan Police Authority by DAC John Yates, MPS094332001, p23, 31 January 2006.

153. DAC John Yates explained that, in order to use such a witness, there was a requirement for the witness to admit and be arraigned for all their past criminal activity. He indicated that this process could take up to a year and that this view was supported by the Crown Prosecution Service.<sup>158</sup> He provided the Metropolitan Police Authority with a copy of the Crown Prosecution Service advice and explained that the Metropolitan Police would be working closely with the Crown Prosecution Service and Counsel in dealing with the matter. DAC Yates said that he would be happy to meet Daniel Morgan's family to explain why the report could not be made public.<sup>159</sup>

## 5.2 The Metropolitan Police Authority's rejection of the first version of the 2006 Report

154. Upon receiving the report dated 31 January 2006 from the Metropolitan Police, the Metropolitan Police Authority rejected it. Unfortunately, the Panel has not been able to view the complete records from the Metropolitan Police Authority concerning this decision as some documentation appears to be missing. It has therefore had to rely on public sources. A BBC News article cited an update provided to Alastair Morgan, in which the Metropolitan Police Authority was quoted as stating:

*'It is his (Mr Duvall's) view that the report is not adequate, for example in either reaching an understanding of past investigations or in acknowledging how possible misconduct by one or more officers may have affected the investigation of this murder.*

*'Nor does he think it answers the key issues of concern for you and your family.*

*'The MPS (Metropolitan Police Service) will therefore be informed tomorrow (Friday) that he is not prepared to accept the report as it stands.*

*'Len fully appreciates quite how upsetting this will be for you and your family but wants you to know that he remains fully committed to taking this forward to a positive conclusion.'*<sup>160</sup>

155. The news article included a comment from a Metropolitan Police spokesperson, who said they were aware of the concerns expressed by the Chair of the Metropolitan Police Authority and would seek to address them.<sup>161</sup>

156. The Panel asked both Len Duvall and David Riddle why the initial draft of the report had been rejected. Len Duvall stated that he considered it to have been *'totally unacceptable'*, as its tone had been *'that everything was alright'*.<sup>162</sup> He believed that there remained outstanding questions and that the family of Daniel Morgan deserved some answers, and so he spoke to Commissioner Sir Ian Blair and sent the draft back.<sup>163</sup> David Riddle recollected that the first version lacked any admission of responsibility by the Metropolitan Police.<sup>164</sup>

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158 Letter enclosing Report to the Metropolitan Police Authority by DAC John Yates, MPS094332001, pp23-24, 31 January 2006.

159 Letter enclosing Report to the Metropolitan Police Authority by DAC John Yates, MPS094332001, p24, 31 January 2006.

160 *'Met chief murder report rejected'*, BBC News Online, <http://news.bbc.co.uk/1/hi/wales/mid/4677472.stm>, 03 February 2006.

161 *'Met chief murder report rejected'*, BBC News Online, <http://news.bbc.co.uk/1/hi/wales/mid/4677472.stm>, 03 February 2006.

162 Panel interview with Len Duvall, PNL000252001, pp2-3, para 13, 20 July 2017.

163 Panel interview with Len Duvall, PNL000252001, p3, para 14, 20 July 2017.

164 Panel interview with David Riddle, PNL000251001, p1, para 4, 13 June 2017.

157. The Panel has seen an exchange of emails between DAC John Yates and David Riddle in the period following the report's rejection. In an email sent on 06 February 2006, DAC Yates wrote to David Riddle:

*'I've got your fax of the wish-list.<sup>165</sup> Whilst some of the material clearly forms part of the Section 22(3) report, much of it is very specific and will require a detailed response. I have to express some surprise that this wasn't brought to my (our) attention earlier and why it didn't form part of the original request. There is no date on the list and I wonder whether you have one?'<sup>166</sup>*

158. David Riddle replied in an email later the same day with a list of 17 'areas where the report might be tweaked a little'. Two examples may illustrate the tone and nature of the concerns:

- *'paras 100 to 116 – can we be more open and expansive about all of this. To show the Met baring its soul as it were. Para 110 is strange, as it clearly leaves open the possibility that police corruption played a part in the murder, and [sic] para 116 only comments about "reduced probability" but the report is otherwise unforthcoming. Para 114 – can you say more about the information in question.'*
- *'Para 135 – is a fuller critique of the investigation possible. Acceptable standard at the time – does this mean poor by today's standards? Be frank.'*<sup>167</sup>

159. The revised 2006 Report was accepted by the Metropolitan Police Authority, and a letter enclosing a copy of the report was sent to the solicitor acting for Alastair Morgan, Jane Morgan and Isobel Hülsmann on 10 April 2006.<sup>168</sup>

160. Having viewed the first version of the 2006 Report, the Panel considers it was reasonable for the Metropolitan Police Authority to encourage a more open response by the Metropolitan Police. However, the additions made to the report by the Metropolitan Police, after the rejection of the first version, were general in nature and did not add much to an understanding of events between 1987 and 2006, as envisaged in the Metropolitan Police Authority's Terms of Reference.

## 6 The final stages of the review and submission of the final report

161. As stated above, it was proposed that, after the report was received by the Metropolitan Police Authority, an independent barrister should review the case papers and produce a report for members of Daniel Morgan's family.

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<sup>165</sup> The Panel assumes this was a list of issues that needed to be addressed in a revised version of the 2006 Report; the Panel has not seen this fax.

<sup>166</sup> Email from DAC John Yates to David Riddle contained in the Abelard Two Investigation, D387, MPS109658001, p3, 06 February 2006.

<sup>167</sup> Email from David Riddle to DAC John Yates contained in Operation Abelard Two D387, MPS109658001, p2, 06 February 2006.

<sup>168</sup> Letter from David Riddle to Raju Bhatt, MPS094332001, pp6-7, 10 April 2006.

162. The Panel understands from the papers made available to it, and from what it has been told by Len Duvall and David Riddle, that this option was not pursued because, in the interval between the first version of the 2006 Report being delivered and the final version being agreed, a new witness had come forward.<sup>169,170</sup> Therefore, the Metropolitan Police believed that there were grounds for further investigation, making it inappropriate for a barrister to be appointed. The new investigation was named Abelard Two and is discussed in Chapter 8.

163. The Panel considers that the decision not to proceed with a review by an independent barrister was reasonable, because of the emerging evidence and the establishment of the Abelard Two Investigation.

164. As stated above, on 10 April 2006, the Deputy Chief Executive and Solicitor of the Metropolitan Police Authority, David Riddle, wrote to the solicitor for members of Daniel Morgan's family, enclosing a copy of the final version of the 2006 Report on a confidential basis. In this letter, he explained that the current investigation meant that *'the Report will not be submitted to any MPA [Metropolitan Police Authority] Committee until the MPS [Metropolitan Police Service] advise us that it would be appropriate to do so'*.<sup>171</sup>

165. The letter outlined the professional and personal views of DAC John Yates about corruption and the actions of DS Sidney Fillery; this is discussed in more detail in the Corruption chapter (see Chapter 10). It also sought views on *'how an apology from the MPS [Metropolitan Police] could most suitably be delivered'*. The letter referred to a forthcoming meeting with the Morgan family, to brief family members on the progress of the Abelard Two Investigation, and welcomed any comments regarding the 2006 Report at the meeting; this is discussed in the chapter on the Treatment of the Family (see Chapter 12).<sup>172</sup> The potential apology from the Metropolitan Police became a long-running issue; this is also discussed in more detail in Chapter 12.

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169 Panel interview with Len Duvall, PNL000252001, p3, para 15, 20 July 2017.

170 Panel interview with David Riddle, PNL000251001, p2, para 11, 13 June 2017.

171 Letter from David Riddle to Raju Bhatt, MPS094332001, pp6-7, 10 April 2006.

172 Letter from David Riddle to Raju Bhatt, MPS094332001, pp6-7, 10 April 2006.

166. The 2006 Report did not reflect a substantial examination of the case papers which were available at the time. The Panel's analysis reveals a reliance on previous investigation or review reports to inform the content of the 2006 Report, rather than a robust examination of the primary investigation material. It is acknowledged that the time frame imposed by the Metropolitan Police Authority, but not challenged by the Metropolitan Police, was too short for the amount of work which would have been required for a full examination of all the primary material. The Metropolitan Police could have dedicated more resources to the task but did not do so. The Panel acknowledges that these events occurred in the aftermath of the bombings in London on 07 July 2005, a time during which the Metropolitan Police resources were stretched. However, the result was that the report did not contain information which would have been of relevance to the Terms of Reference for the report, and which would have enabled the Metropolitan Police to have provided a more comprehensive assessment of the lessons which could have been learned.

167. While the 2006 Report did assess previous investigations and reviews, it largely relied on the interpretations provided by those investigations of their own thoroughness when reaching its conclusions. This resulted in the repetition of past orthodoxy rather than generating any substantial new analysis or lessons learned. This was a missed opportunity, particularly given that the originally envisaged, second phase of an independent barrister reviewing the papers was not able to take place.





# Chapter 8: The Abelard Two Investigation

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- 1 Chronology of key events relating to the Abelard Two Investigation
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- 3 The governance of the investigation
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- 8 The arrests and interviews of Jonathan Rees, former DS Sidney Fillery, Glenn Vian, Garry Vian and James Cook
- 9 Ongoing investigation
- 10 The indictment against the five Defendants in 2008
- 11 The court hearings in R v Rees & Others 2008-2011
- 12 The Panel's general conclusions

## 1 Chronology of key events relating to the Abelard Two Investigation

- **December 2004** James Ward contacted the Metropolitan Police seeking to speak with an officer connected to the Daniel Morgan investigation.
- **13 January 2006** Following various meetings with James Ward, DCS David Cook provided an update to DAC John Yates proposing that James Ward should be debriefed under the new Serious Organised Crime and Police Act 2005.
- **09 February 2006** A meeting was held attended by Metropolitan Police officers and the Crown Prosecution Service. A strategy for a further investigation of Daniel Morgan's murder was agreed.

## The Report of the Daniel Morgan Independent Panel

- **March 2006** The Abelard Two Investigation began under the leadership of DCS David Cook.
- **22 May 2006** James Ward's debrief began.
- **12 July 2006** As part of the Abelard Two Investigation strategy, an article was published in *The Sun* newspaper regarding the re-investigation of Daniel Morgan's murder.
- **22 July 2006** Gary Eaton contacted *The Sun* news desk to provide information about the murder of Daniel Morgan.
- **26 July 2006** Abelard Two Investigation officers met Gary Eaton.
- **08 August 2006** Gary Eaton's debrief began.
- **09 August 2006** First recorded Oversight Group meeting was held.
- **27 October 2006** An article was published in *The Sun* newspaper about the finding of a 1957 Austin Healey car which had belonged to Daniel Morgan, including a substantial reward on offer regarding Daniel Morgan's murder.
- **13 November 2006** Person S15 came forward as a witness.
- **12 December 2006** James Ward's debrief concluded.
- **13 June 2007** The Abelard Two Investigation submitted a report to the Crown Prosecution Service seeking advice as to whether the suspects, Jonathan Rees, former DS Sidney Fillery, Glenn Vian, Garry Vian and James Cook, should face criminal charges in connection with the murder of Daniel Morgan.
- **07 December 2007** DCS David Cook retired as a police officer and joined the Serious Organised Crime Agency but continued to be regarded as the Senior Investigating Officer of the Abelard Two Investigation.
- **18 December 2007** Gary Eaton's debrief concluded.
- **15 April 2008** Counsel provided an advice deciding that there was enough evidence to charge the suspects.
- **21 April 2008** The suspects were arrested. Interviews were conducted until 23 April 2008.
- **22 April 2008** Person D6 came forward as a witness.
- **23 April 2008** Jonathan Rees, Glenn Vian, Garry Vian and James Cook were charged with the murder of Daniel Morgan. Former Ds Sidney Fillery was charged with perverting the course of justice.
- **July 2008** Pre-trial hearings began.
- **07 July 2008** Ninth and last recorded Oversight Group meeting was held.
- **30 June 2009** Person J5 agreed to provide evidence.
- **12 August 2009** Person J5's debrief began.

- **26 October 2009** Person J5's debrief concluded.
- **15 February 2010** Mr Justice Maddison excluded Gary Eaton's evidence. Former DS Sidney Fillery was discharged.
- **18 October 2010** The Prosecution withdrew Person J5 as a witness.
- **18 November 2010** James Cook was formally acquitted of the murder of Daniel Morgan.
- **24 January 2011** The Prosecution withdrew James Ward as a witness.
- **11 March 2011** The Prosecution offered no evidence against Jonathan Rees, Glenn Vian and Garry Vian. They were acquitted. A prepared press statement was read to the media by DCS Hamish Campbell.
- **25 March 2011** Mr Justice Maddison handed down his judgment on Gary Eaton.
- **31 March 2011** A formal apology was made by the Acting Commissioner of the Metropolitan Police, Tim Godwin, to the family of Daniel Morgan.
- **September 2011** The Abelard Two Investigation was closed.

### **Officers of significance in the investigation, in order of rank**

- Commander (ultimately Commissioner) Cressida Dick
- Deputy Assistant Commissioner (later Assistant Commissioner) John Yates
- Deputy Assistant Commissioner Janet Williams
- Commander Shaun Sawyer
- Commander Simon Foy
- Commander David Johnston
- Commander Stuart Osborne
- Commander David Armond
- Detective Chief Superintendent Hamish Campbell
- Detective Chief Superintendent David Cook
- Detective Chief Superintendent Andrew Murphy
- Detective Superintendent Roger Critchell
- Detective Superintendent Barry Phillips
- Detective Chief Inspector Neil Hibberd

- Detective Chief Inspector Jamie Armstrong
- Detective Inspector (later Acting Detective Chief Inspector and then Temporary Detective Chief Inspector) Noel Beswick
- Detective Sergeant (later Detective Inspector) Douglas Clarke
- Detective Sergeant (later Detective Inspector) Anthony Moore
- Detective Sergeant (later Temporary Detective Inspector) Gary Dalby
- Detective Sergeant Peter Summers
- Detective Constable Caroline Linfoot
- Detective Constable Christopher Winks
- Detective Constable Nicholas Atherton
- Detective Constable Robert Groombridge

## 2 The formation of the Abelard Two Investigation

### 2.1 Commissioning the investigation

1. The final investigation into Daniel Morgan's murder had its genesis in the emergence of a new witness who was prepared to give significant evidence to the police about the murder as an Assisting Offender<sup>1</sup> under the new Serious Organised Crime and Police Act 2005 (see paragraph 6 below).

2. In December 2004, DCS David Cook was informed by Commander David Armond that a prisoner, James Ward, then on remand charged with serious crimes, had made contact seeking to speak to someone connected to the investigation of Daniel Morgan's murder.<sup>2</sup> Various meetings occurred, there was ongoing discussion with Stuart Sampson of the Crown Prosecution Service (with whom DCS Cook had dealt previously, and whom he (DCS Cook) later suggested should be asked to work on the investigation),<sup>3</sup> and James Ward provided specific information to DCS Cook during the year which followed (see section 6.1 below). On 12 January 2006, DCS Cook met James Ward again, and on 13 January 2006 DCS Cook wrote to DAC John Yates, explaining that he had met James Ward the previous day, and proposing that he should be debriefed under the new legislation. Explaining some of the drawbacks, including the potential credibility of James Ward as a witness, he said:

- *'During the 2002 investigation Orlando Pownall stated we were not far from reaching a stage where he would consider prosecuting this case but what he needed was something substantial to hang everything else we have off of [sic].*

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1 An offender who has offered to assist with the investigation or prosecution of offences committed by others and is subject to an agreement under the Serious Organised Crime and Police Act 2005.

2 EDN000088001, p1, December 2004 and Operation Yamuna Timeline of Events, MPS103059001, p2, December 2004.

3 Panel interview with former DCS David Cook, Transcript 3, pp16-17, 25 August 2020.



- *This person not only provides us with the potential of doing that but also allows us, in line with this, to develop and introduce a new investigative strategy to gather evidence not in corroboration of what he could say, but in support of [sic] he could give. By this I mean a new technical attach [sic] on existing premises etc.*
- *This would be supported by the ongoing forensic review and the development of a new media strategy.*
- *This would be an excellent case for the MPS [Metropolitan Police Service] to make use of the new powers granted that now exist within the SOCA [Serious Organised Crime Agency] Bill that come into Force on the 1st of April (Copy attached). This legislation is retrospective and, subject to the agreement of the CPS [Crown Prosecution Service], would allow the MPS to make ground breaking headway in this difficult case using legislation designed for this purpose.<sup>4</sup>*

3. A meeting was held on 09 February 2006, attended by DAC John Yates, DCS David Cook, DCS Steve Gwillam from the Directorate of Professional Standards, Stuart Sampson from the Crown Prosecution Service, and other police officers, to discuss a strategy for a further investigation of Daniel Morgan's murder, the Abelard Two Investigation.<sup>5</sup> It was decided that the Specialist Crime Directorate should take the lead in the murder enquiry, supported by the Directorate of Professional Standards; that DCS Cook, who had previously been responsible for the conduct of the overt side of the Abelard One/Morgan Two Investigation, was to be the Senior Investigating Officer '*in agreement with the Crown Prosecution Service*'; and that witness protection matters were to be dealt with by the Directorate of Professional Standards Witness Protection Unit.<sup>6</sup>

4. Although he had been appointed as Senior Investigating Officer, DCS David Cook worked on full-time secondment away from the Metropolitan Police from the beginning of the Abelard Two Investigation until his retirement on 07 December 2007.<sup>7</sup> The Panel has seen records which show that the agencies to which he was seconded and for which he worked full-time, were charged by the Metropolitan Police for his full salary and other costs until 31 October 2007.

5. The Abelard Two Investigation was stated to be '*the reinvestigation into the murder of Daniel MORGAN, who was killed with an axe in the car park of The Golden Lion public house, in Sydenham Road SE26, on 10/03/1987*'.<sup>8</sup> The HOLMES computer account for the investigation was opened on 31 March 2006.<sup>9</sup>

6. New evidence was required to enable any prosecution. The investigation was extensive and included:

- i. the separate process of debriefing Assisting Offenders as witnesses using the procedures prescribed in the Serious Organised Crime and Police Act 2005;<sup>10</sup>

4 Memorandum from DCS David Cook to DAC John Yates re James Ward and the potential to debrief him and launch a new investigation into the murder of Daniel Morgan, MPS109608001, p2, 13 January 2006.

5 Operation Abelard Strategy meeting regarding the death of Daniel Morgan, MPS072217001, p2, 09 February 2006.

6 Operation Abelard Strategy meeting regarding the death of Daniel Morgan, MPS072217001, p2, 09 February 2006.

7 Emails re DCS David Cook retirement, work at Serious Organised Crime Agency/Metropolitan Police SIO and the agreement reached between parties, MPS109657001, pp12-13, 17 December 2007. He was seconded first to HM Customs and Excise, later to HM Revenue & Customs when HM Inland Revenue and HM Customs and Excise were merged on 18 April 2005, and later to the Serious Organised Crime Agency when it assumed the investigative and intelligence sections of HM Revenue & Customs on 01 October 2006.

8 Index Policy File, MPS071795001, p2, 31 March 2006.

9 Index Policy File, MPS071795001, p2, 31 March 2006.

10 The Serious Organised Crime and Police Act 2005 codified the process of debriefing Assisting Offenders.

- ii. following up lines of enquiry revealed during that process;
- iii. a review of forensic evidence and the commissioning of further forensic testing;
- iv. examination of previous lines of enquiry (it was not until 20 April 2006 that, security locks having been fitted to the investigation's rooms to ensure no unauthorised entry, they were able to start opening the boxes of material from previous investigations)<sup>11</sup> and subsequent investigation with a view to securing further evidence;
- v. the deployment of covert listening equipment; and
- vi. the generation of a media strategy to encourage new witnesses (DCS David Cook was responsible for the investigation's media strategy).<sup>12</sup>

7. These investigative activities ran in parallel and ultimately led to five arrests on 21 April 2008.<sup>13</sup> Jonathan Rees, Glenn Vian, Garry Vian and James Cook were charged with the murder of Daniel Morgan on 23 April 2008.<sup>14</sup> Former DS Sidney Fillery was charged, on the same day, with perverting the course of justice.<sup>15</sup>

8. On 15 February 2010, the prosecution of former DS Sidney Fillery was stayed by Mr Justice Maddison,<sup>16</sup> and former DS Fillery was formally acquitted of the charge of perverting the course of justice.<sup>17</sup> On 18 November 2010, the prosecution of James Cook was discontinued by the Crown Prosecution Service and he was formally acquitted.<sup>18</sup> On 11 March 2011, the prosecutions of Jonathan Rees, Garry Vian and Glenn Vian were discontinued by the Crown Prosecution Service. They were formally acquitted of the murder of Daniel Morgan.<sup>19</sup>

## **2.2 The management of the investigation**

9. The material available to the Panel demonstrates significant confusion about the management arrangements for this investigation. There continues to be a lack of clarity about who was, and who was perceived to be, the Senior Investigating Officer throughout the investigation and to whom that officer reported.

10. DCS David Cook was appointed as the Senior Investigating Officer to act as *'the leader of the team, provide investigative focus, coordinate and motivate the team, and to be accountable for every facet of the enquiry, whilst managing a whole host of specialist resources to maximum effect'*.<sup>20</sup> However, at that time he was seconded to another organisation, the Serious Organised Crime Agency.

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11 Minutes of office meetings, MPS071803001, p1, 20 April 2006.

12 Minutes of office meetings, MPS071803001, p8, 31 May 2006.

13 Witness statement of a Detective Constable, MPS000349001, pp1-8, 28 April 2008.

14 Defendant's custody file, MPS108229001, pp49-55, 23 April 2008.

15 Defendant's custody file, MPS108229001, p52, 23 April 2008.

16 Extract from transcript of discussion between Mr Justice Maddison and counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, p4, 15 February 2010.

17 Extract from transcript of discussion between Mr Justice Maddison and counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, p7, 15 February 2010.

18 Other Document D326, Three Documents: Closing Report for Operation Abelard II, by Gary Dalby, 16 September 2011; CPS Case summary, by Jonathan Rees QC, 27 August 2008; Ruling of Mr Justice Maddison, MPS109597001, p6, 16 September 2011.

19 Final Hearing Transcript of R v Rees and Others, MPS107449001, p33, 11 March 2011.

20 The Guidance on Major Incident Room Standardised Administrative Procedures (MIRSAP) ACPO Centrex 2005, p18, section 1.2, quoting the ACPO (forthcoming) Murder Investigation Manual.

11. During an interview with the Panel, former DCS David Cook said that he did not *'remember whether I volunteered or was volunteered, but I ended up becoming the SIO on Abelard'*. He said that *'I had difficulty finding a deputy SIO. The first couple that I approached, once they found out what the job was, did what I should've done and that was run a mile, you know.'*<sup>21</sup>

12. However, DCS David Cook recorded a decision, dated 22 March 2006, appointing DI Noel Beswick as Deputy Senior Investigating Officer with *'the right to make decisions without reference to myself in respect of this investigation'*. DCS Cook's reason for this decision was as follows:

*'As DCS I have other responsibilities which include working for law enforcement agencies other than the MPS. This investigation will be a dynamic process requiring decisions on a daily and personal basis, and I will not always be available. I have appointed DI Beswick as ADCI [Acting Detective Chief Inspector] as his responsibilities are to be that of a MIT [Murder Investigation Team] team manager on a daily basis, he is experienced in the SIO [Senior Investigating Officer] role having performed such duties for the previous year. I will maintain overall responsibility for the investigation.'*<sup>22</sup>

13. In reality, much of the work of the Senior Investigating Officer was undertaken by A/DCI (later T/DCI)<sup>23</sup> Noel Beswick.

14. Former T/DCI Noel Beswick told the Panel that until 07 December 2007, the date that DCS David Cook retired from the Metropolitan Police, DCS Cook:

*'was 4 days a week SOCA [Serious Organised Crime Agency] one day MPS [Metropolitan Police Service], but the MPS hours were a few each day of the working week not a particular day. We all worked long hours but Dave Cook particularly so. He was often in the Abelard office at 6 am for an hour or so. Then he would go across the road to SOCA. It was not unusual for him to pop back over during the day or late afternoon. After he retired and became full time SOCA his attendance pattern didn't change, or at least I don't recall any change. His title changed from SIO to Consultant SIO, I continued to manage the team on a daily basis, I was free to make decisions but in fairness I would discuss any major issues with Dave Cook too. After Dave Cook retired my line manager was DCS Hamish Campbell [...] I did not attend all the oversight meetings but when I did I would provide an operational update, and raise any current issues of concern.'*<sup>24</sup>

15. The arrangements under which DCS David Cook conducted the Abelard Two Investigation were therefore complex, because of his full-time secondments, followed by full-time employment by the Serious Organised Crime Agency from 07 December 2007.<sup>25</sup>

21 Panel interview with former DCS David Cook, Transcript 2, p7, 25 August 2020.

22 Decision 2, Decision log by DCS David Cook, MPS080576001, p1, 22 March 2006.

23 A/DCI is Acting Detective Chief Inspector: this is intended to be a short-term arrangement, usually covering for the absence of the substantive post holder. T/DCI is Temporary Detective Chief Inspector: this is intended to be a medium- to long-term arrangement and is paid from the outset. It gives some degree of stability, without giving the post-holder the substantive rank.

24 Email from former T/DCI Noel Beswick to DMIP, 13 October 2016.

25 The National Crime Agency absorbed the responsibilities of the Serious Organised Crime Agency on 07 October 2013. Available online at: <https://www.gov.uk/government/organisations/serious-organised-crime-agency>.

16. The arrangements for former DCS David Cook's ongoing involvement in the Abelard Two Investigation, following his retirement from the Metropolitan Police, were agreed by AC John Yates with David Bolt of the Serious Organised Crime Agency on 13 December 2007 as follows:

*'David Cook will continue to support the ongoing investigation and if the decision is made, prosecution of the offenders.*

**His role will be defined as follows** [bold in original]:

- *Provide continuity to the ongoing investigation in terms of corporate knowledge and experience he has gained through the role of SIO with the investigation over the years.*
- *Continue to act as the principle [sic] liaison with the Morgan family and in this role he will have the support of Family Liaison Officers within the investigative team.*
- *Support T/DCI Noel Beswick in the development of the continuing investigation, prosecution and disclosure strategy and to offer advice and guidance on critical issues.*
- *Attend CPS [Crown Prosecution Service] meetings and Counsel Case conferences in pursuance of the prosecution of the offenders.*
- *Attend Oversight and Metropolitan Police Authority Meetings to provide an update on progress or critical issues.*
- *Act as the Liaison Officer between SOCA [Serious Organised Crime Agency] and the MPS [Metropolitan Police Service] on any items of connected interest relating to Operation Abelard.*
- *To attend Court and give evidence in respect of his role in the prosecution of the offenders.'*<sup>26</sup>

17. The agreement stated: **'Specifically his role does not involve any staff oversight, supervision or management responsibilities, although I expect him to refer to me, as the overseer, any matters he feels are of concern** [bold in original].'<sup>27</sup>

18. The material available indicates, therefore, that because AC John Yates limited former DCS David Cook's involvement by excluding any managerial or supervisory function, he was incapable of being the Senior Investigating Officer for the Abelard Two Investigation after his retirement, since he did not have the management or supervisory powers which are an essential part of the conduct of an efficient, well-resourced, accountable investigation by a Senior Investigating Officer.<sup>28</sup>

<sup>26</sup> Emails re DCS David Cook retirement, work at SOCA/Metropolitan Police SIO and the agreement reached between parties, MPS109657001, pp12-13, 13 December 2007.

<sup>27</sup> Emails re DCS David Cook retirement, work at SOCA/Metropolitan Police SIO and the agreement reached between parties, MPS109657001, p13, 13 December 2007.

<sup>28</sup> Guidance on Major Incident Room Standardised Administrative Procedures (MIRSAP) 2005, pp18-19, s 1.2.

19. When asked about these arrangements by the Panel, former DCS David Cook said that he divided his time between two locations, the Serious Organised Crime Agency and the Abelard Two Investigation: he worked at the Abelard Two Investigation when he had finished his day's work at the Serious Organised Crime Agency. Former DCS Cook said that he was not paid for the work he did for the Metropolitan Police, and that he was, in effect, an unpaid consultant Senior Investigating Officer. He said that on one occasion, in 2009, he got a £5,000 honorarium but he did not receive anything else. He felt that he could not walk away from the Daniel Morgan murder because it was so important to the family that it be solved.<sup>29</sup> During this period, DCS Cook was paid by his employer, the Serious Organised Crime Agency. His expenses were met by the Metropolitan Police.

20. The reasons given by AC John Yates for former DCS David Cook's continuing involvement in the investigation after he had left the employment of the Metropolitan Police were as follows:

*'His role within Operation Abelard has been critical in that he has the direct relationship with the close family of Daniel Morgan and, over the years has built up their trust. Additionally he is an important part of the corporate memory of the investigation and was responsible for the development of the Investigative Strategy and the recruitment of key witnesses which have allowed the investigation to reach the stage it is at.'*<sup>30</sup>

21. Former AC John Yates told the Panel, *'[i]t was not how you would have designed it, but the family trusted David Cook and it would have taken a year plus to bring a new SIO [Senior Investigating Officer] up to speed'*.<sup>31</sup> He also told the Panel in November 2020 that, *'[a]s a minimum, SIOs at DCI level would be expected to run 5 separate murder enquiries simultaneously. Commonly, SIOs have responsibility for more than 10 investigations at any one time.'*

22. There was a lack of understanding of the actual status of former DCS David Cook from 07 December 2007. Even though he did not have the responsibilities of a Senior Investigating Officer, he continued to be referred to, and to refer to himself, as the Senior Investigating Officer.<sup>32</sup> Some Metropolitan Police officers close to the investigation, including T/DCI Noel Beswick, thought that DCS Cook remained as Senior Investigating Officer until the end of the investigation.<sup>33</sup> DS Gary Dalby, in an undated statement to the Independent Police Complaints Commission, said that he understood that DCS Cook would continue to be Senior Investigating Officer after his retirement from the Metropolitan Police until the end of the trial.<sup>34</sup> Former DCS Cook has continued to say that he had *'conduct'* of the Abelard Two Investigation.<sup>35</sup> He also told the Panel during interview that, after his retirement, *'politics'* within the Metropolitan Police forced him to intervene to *'keep the politics as much as possible away from Noel BESWICK and the team'*.<sup>36</sup>

23. By 27 August 2009, some investigation documents referred to T/DCI Noel Beswick as the Senior Investigating Officer.<sup>37</sup> On 15 January 2010, in an email explaining that he was about to introduce a new management structure *'around the mechanics and process of Abelard'*,

29 Panel interview with former DCS David Cook, p8, para 40, 04 June 2015.

30 Agreement reached between the Metropolitan Police and Serious Organised Crime Agency, MPS109657001, p12, 13 December 2007.

31 Panel interview with DAC John Yates, p2, para 9, 30 August 2016.

32 Statement of former DCS David Cook, MPS078478001, p1, 04 November 2009.

33 Former T/DCI Noel Beswick statement, MPS109748001, p9, paras 35-37, 20 October 2016.

34 Statement of DS Gary Dalby to the Independent Office for Police Conduct, MPS1097130001, p33, undated.

35 Statement of former DCS David Cook, MPS000459001, p1, 21 April 2009; Statement of former DCS David Cook, MPS003505001, p1, 20 July 2009; Statement of former DCS David Cook, MPS000540001, p1, 23 September 2009.

36 Panel interview with former DCS David Cook, Transcript 2, p11, 25 August 2020.

37 Index Policy File, MPS071795001, pp25-37, 31 March 2006.



Commander Simon Foy described T/DCI Noel Beswick as *'the SIO and responsible for the day to day running of the investigation'*.<sup>38</sup> In contrast to his earlier statements that former DCS Cook had continued to act as Senior Investigating Officer, former T/DCI Noel Beswick said, when interviewed by the Panel on 11 December 2018, that *'[w]hen Dave Cook retired from the MPS [Metropolitan Police Service] I became the SIO, and he became the consultant SIO'*.<sup>39</sup>

24. Records confirm that, as former T/DCI Noel Beswick has told the Panel, both before and after DCS David Cook's retirement, T/DCI Beswick dealt with day-to-day, hands-on management. DCS Cook dealt with the Metropolitan Police management, finances, resources and the media until his retirement.<sup>40</sup> There is no clear record of who was responsible for these issues after DCS Cook retired from the Metropolitan Police.

25. Analysis of the material available shows that there were 45 *'Office Meetings'* between 20 April 2006 and 19 October 2010.<sup>41</sup> These 45 *'Office Meetings'* included *'Office Action Meetings'* at which there was reporting back on elements of the investigation conducted by members of the Abelard Two Investigation. Those meetings recorded the progress and operational strategy for the investigation in detail.<sup>42</sup> The last occasion on which former DCS David Cook was recorded as having attended such a meeting was 26 October 2009.<sup>43</sup> Available records show that he attended some 27 per cent of the *'Office Meetings'*. DCS Cook is recorded as having attended all the Gold Group/Oversight Group meetings for which minutes are available. Of 119 sensitive decisions made during the period between January 2009 and March 2011, only one was made by former DCS Cook.<sup>44</sup> This was on 08 February 2010.<sup>45</sup>

26. It is evident that there was confusion about who was responsible for the Abelard Two Investigation. While it is normal for Senior Investigating Officers to have the conduct of more than one major investigation at any one time, the material shows that DCS David Cook was not available to the Abelard Two Investigation as he should have been because of his other responsibilities and employment. Despite this, it is also evident that the family of Daniel Morgan understood throughout that DCS Cook was the Senior Investigating Officer, and that they were unaware that from December 2007 he had no management powers or responsibilities. This should not have been allowed to happen.

27. T/DCI Noel Beswick retired from the Metropolitan Police in April 2013. As stated above, he was DCS David Cook's Deputy Senior Investigating Officer, and told the Panel in an interview that he reported to DCS Cook even after DCS Cook's retirement from the Metropolitan Police.<sup>46</sup> He also told the Panel that after DCS Cook's retirement, DCS Hamish Campbell was also a person he could go to as he was his *'Unit Commander'*, saying that they met *'[n]ot often, not*

38 Email from Commander Simon Foy to T/DCI Noel Beswick and others, EDN000782001, p1, 15 January 2010.

39 Panel interview with former T/DCI Noel Beswick, p1, 11 December 2018.

40 Panel interview with former T/DCI Noel Beswick, p1, 11 December 2018.

41 Minutes of office meetings, MPS071803001, pp1-134, various dates.

42 Minutes of office meetings, MPS071803001, pp1-134, various dates.

43 Minutes of office meetings, MPS071803001, p114, 26 October 2009.

44 A document was created on the Abelard Two HOLMES computer which recorded *'sensitive'* decisions. Sensitive decisions involved issues concerning the use of informants and operational police tactics which could be the subject of public interest immunity applications at court by the police for them to be excluded from hearings.

45 The sensitive decision recorded as having been made by former DCS David Cook was decision number 169, MPS080481001, p1, 08 February 2010.

46 Panel interview with former T/DCI Noel Beswick, p2, 11 December 2018.

*regularly, on a need must basis*'.<sup>47</sup> He said that *'Hamish CAMPBELL got more involved after Dave COOK retired*'.<sup>48</sup> Despite this, he appears to have continued to regard former DCS Cook as the Senior Investigating Officer. Former T/DCI Beswick said he had been at meetings chaired by DAC, later AC, John Yates, and that he had had reasonable contact with Commander Simon Foy: *'It was a short chain of command*'.<sup>49</sup> He said that *'Simon Foy [...] was like John Yates' Silver*'.<sup>50</sup> (The reference to *'Silver*' indicates that Commander Foy was second in command, reporting to AC Yates as Gold Commander.) Commander Foy, writing in January 2010, referred to *'the normal line management/resource and even investigative support and direction that is in place between Noel as the SIO and Hamish C [Campbell] – as per normal SCD1 arrangements*'.<sup>51</sup>

28. The situation was further complicated by the fact that the normal reporting structures did not apply to DCS David Cook. Unusually, though not uniquely, DCS Cook reported directly to DAC John Yates from the very beginning of the investigation, rather than to Commander David Johnston and later to Commander Simon Foy, who were both heads of the Homicide and Serious Crime Command, to whom Senior Investigating Officers responsible for murder investigations normally reported. As a result of this, Commander Johnston was initially unaware of the investigation (see Section 3.1 below) and did not have full operational control of it, as would have been standard. Operational control remained with DAC, later AC, John Yates throughout, even though, as Assistant Commissioner Operational Services, he had responsibility for the Directorate of Professional Standards and, from 2009, for Counter-Terrorism. Despite this wide range of responsibilities, former AC Yates told the Panel that he *'retain[ed] the lead for Abelard II as by that stage it had entered the critical pre-trial proceedings*'.<sup>52</sup>

29. In an interview with the Panel, former AC John Yates said that DCS David Cook had direct access to him every two weeks or in an operational emergency, whenever necessary. Sometimes the contact was every three or four weeks, depending upon the circumstances. Contact tended to be on a needs basis, often in relation to family issues, pressing Court or Counsel issues, or resourcing.<sup>53</sup>

30. No record was available to the Panel of the meetings which occurred between DCS David Cook and DAC/AC John Yates, in relation to the conduct of the Abelard Two Investigation.

31. The Panel asked former DCS David Cook about his contact with DAC/AC John Yates. Former DCS Cook said that it varied: sometimes there was a need to meet him, and he did. On other occasions, DAC/AC Yates was busy and former DCS Cook was only able to meet him every month or *'couple of months*'. Former DCS Cook explained that when DAC Yates became Assistant Commissioner it was more difficult to meet him and that, on a number of occasions, he had been unable to get access to AC Yates. When asked whether he was able to telephone AC Yates, former DCS Cook said that he wasn't because AC Yates was a busy man. He explained that *'largely, you just got on and deal[t] with the challenges you have*'.<sup>54</sup>

32. Stuart Sampson of the Crown Prosecution Service told the Panel that the question of whether DCS David Cook could carry out both his role with the Serious Organised Crime Agency and his role as Senior Investigating Officer of the Abelard Two Investigation at the same

47 Panel interview with former T/DCI Noel Beswick, p2, 11 December 2018.

48 Panel interview with former T/DCI Noel Beswick, p2, 11 December 2018.

49 Panel interview with former T/DCI Noel Beswick, p2, 11 December 2018.

50 A reference to the Gold, Silver, Bronze command structure introduced to deal with major incidents.

51 Email from Commander Simon Foy to former T/DCI Noel Beswick and others, EDN000782001, p1, 15 January 2010.

52 Panel interview with former AC John Yates, Notes of Meeting, pp4-5, para 19, 30 August 2016.

53 Panel interview with former AC John Yates, p7, para 31, 30 August 2016.

54 Panel interview with former DCS David Cook, Transcript 2, p10, 25 August 2020.

time, was raised at an early stage with DCS Cook by AC John Yates. Stuart Sampson was present at a meeting with AC Yates and DCS Cook at which this was discussed. DCS Cook was adamant that he could do so. Stuart Sampson commented that *'[w]ith hindsight he clearly wasn't able to do so.'* Stuart Sampson also said that, at a later stage, about the time that DCS Cook was giving evidence at the pre-trial hearing, there was a meeting attended by Stuart Sampson with Commander David Armond, and he got the impression that there were tensions, *'but it was not something for him to get involved with unless it affected or was likely to affect the prosecution'*. DCS Cook had assured Stuart Sampson that he could cope but *'[l]atterly, the case was not handled well'*.<sup>55</sup>

33. The Panel sought to clarify individual management responsibilities during the Abelard Two Investigation. When asked who was responsible for the investigation, AC Martin Hewitt, who had responsibility for the Metropolitan Police response to the Panel, said that:

1. *'DCS David Cook was appointed as SIO on 9th February 2006.*
2. *DCS Cook reported to Assistant Commissioner John Yates. AC John Yates was Gold Commander for the investigation. Commander Dave Johnson [sic] and DCS Hamish Campbell had oversight of the investigation.*
3. *DCS Cook's position as SIO continued after his retirement from the MPS in 2007 when he began work with SOCA [Serious Organised Crime Agency]. An agreement was made directly between AC John Yates and David Bolt (The Director General of SOCA) that DCS David Cook would devote a proportion of his working week to Operation Abelard II. DCI Noel Beswick was the nominated deputy SIO and DCS David Cook was retained as the SIO/ Strategic advisor to DCI Noel Beswick with support from DCS Hamish Campbell and Commander Simon FOY.*
4. *No other officers were formally appointed as the SIO of Operation Abelard II following DCS David Cooks [sic] retirement from the MPS [Metropolitan Police Service].*
5. *Between 2007 and 2011, AC John Yates had immediate oversight of the Operation Abelard II investigation.*
6. *AC John Yates remained the ACPO [Association of Chief Police Officers] ranking officer over the course of the Operation Abelard II.*<sup>56</sup>

34. However, the *'Role Profile'* agreed between the Metropolitan Police and the Serious Organised Crime Agency did not refer to DCS David Cook as the *'SIO/Strategic Adviser'* but rather as supporting T/DCI Noel Beswick.<sup>57</sup> Thus, the description provided by AC Martin Hewitt of DCS Cook's role (see paragraph 33 above), and the non-appointment of a Senior Investigating Officer after DCS Cook's retirement, is not supported by the documentation available to the Panel.

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<sup>55</sup> Panel interview with Stuart Sampson, PNL000184001, pp1-2, 06 February 2020.

<sup>56</sup> Letter to Baroness Nuala O'Loan from AC Martin Hewitt re DCS David Cook and attached email 20 September 2016, MPS109660001, p1, undated.

<sup>57</sup> Emails re DCS David Cook retirement, work at Serious Organised Crime Agency /MPS SIO and the agreement reached between parties, MPS109657001, p12, 1 November 2007.

35. The most recent statement from the Metropolitan Police about former DCS David Cook's role in the Abelard Two Investigation is contained in a report to the Crown Prosecution Service in June 2019. It records that DCS Cook '*continued to act on behalf of the MPS [Metropolitan Police Service] in his role as Senior Investigating Officer (SIO) for the investigation. [...] Mr Cook's dual function came to an end in March 2011[...]*'.<sup>58</sup> This statement is factually incorrect.

36. It is clear from the material available that the line management arrangements were both confused and irregular throughout most of the Abelard Two Investigation. DCS David Cook was seconded and working full-time for the Serious Organised Crime Agency in February 2006. It was inappropriate for DAC John Yates and the Metropolitan Police to appoint him as Senior Investigating Officer at the beginning of the Abelard Two Investigation. A new Senior Investigating Officer should have been appointed after DCS Cook's retirement in December 2007. The evidence shows that although the Metropolitan Police maintained DCS Cook as Senior Investigating Officer when he was in full-time employment elsewhere, his functions had been specifically restricted, so that he was unable to fulfil the role of Senior Investigating Officer. A/DCI (later T/DCI) Noel Beswick was never appointed as the Senior Investigating Officer and did not describe himself as such at the time.

37. AC Martin Hewitt was incorrect when he described Commander David Johnston and DCS Hamish Campbell as having responsibility for oversight of the investigation. That responsibility lay with AC John Yates as acknowledged by Commander Simon Foy, who played an active role from January 2010. DCS Campbell became involved in August 2009 as T/DCI Noel Beswick's line manager. Commander Foy and DCS Campbell were somewhat limited in their involvement by AC Yates' determination to remain in control.

38. Since DAC, later AC, John Yates had, unusually, acted as line manager for DCS David Cook, he should have ensured that problems did not result from this departure from the normal reporting arrangements. This was not a professional, proper way to manage the murder investigation. Had DCS Cook reported, as normal, to the Commander of the Homicide and Serious Crime Command, there would have been clarity as to who was responsible for supporting and directing the investigation at chief officer level. Clarity as to who has responsibility for managing any investigation is essential.

<sup>58</sup> MG3 Report to the CPS, EDN002248001, pp2-3, para 8, June 2019.

39. It is acknowledged that DCS David Cook *'felt that he could not walk away from the Daniel Morgan murder because it was so important to the family that it be solved'*.<sup>59</sup> However, this did not justify the exceptional arrangements which were made in this case. Since the line management arrangements were not of DCS Cook's making, but were put in place by DAC John Yates, the responsibility lay with DAC Yates, who should have ensured proper reporting arrangements. The exceptional management arrangements that were applied during the Abelard Two Investigation caused many of the problems which arose and are explained later in this chapter.

40. The Panel has examined the evidence available about the pressure created by DCS David Cook's dual roles and its impact on A/DCI (later T/DCI) Noel Beswick. The Panel has noted above (see paragraph 25) that DCS Cook attended only 27 per cent of the office meetings for the Daniel Morgan investigation held between April 2006 and October 2010. On one occasion, he made representation to Commander Simon Foy about the problems faced by T/DCI Beswick and the pressure under which he was operating.<sup>60</sup>

41. Former Commander Simon Foy told the Panel that, in October 2009, there were concerns about T/DCI Noel Beswick's workload, and that he and DCS Hamish Campbell discussed the matter. He said that the pressure resulting from disclosure problems (see section 11.7 below) was overwhelming and, *'[w]e also needed to think about how we would stop Noel BESWICK from "falling over" and as he was becoming unsure of his status as an Acting DCI – and concerned about what his future career profile might look like'*.<sup>61</sup> He said that T/DCI Beswick *'was struggling with having to shoulder responsibility and the fact that they could have taken his temporary rank away from him. I tried to assist and reassure him.'*<sup>62</sup>

## RECOMMENDATION

42. It is recommended that the Metropolitan Police introduce systems to ensure that the management arrangements which applied during the Abelard Two Investigation can never be replicated in any future investigation, and that proper management arrangements, in compliance with the Association of Chief Police Officers' Murder Manual, exist on all occasions.

<sup>59</sup> Panel interview with former DCS David Cook, p8, para 40, 04 June 2015.

<sup>60</sup> Email/Note from former DCS David Cook to Commander Simon Foy, MPS109586001, pp8 and 14-15, 29 and 30 June 2010.

<sup>61</sup> Panel interview with former Commander Simon Foy, p4, 26 November 2019.

<sup>62</sup> Panel interview with former Commander Simon Foy, p5, 26 November 2019.



## 2.3 Resources for the investigation: staffing, accommodation and administration

### 2.3.1 Staffing

43. Former T/DCI Noel Beswick told the Panel in interview that, although the investigation got the numbers of staff ‘argued’ for, and had some very good people, there was a shortage of staff for the Major Incident Room, and they were unable to fill all the roles required.<sup>63</sup> He said that ‘[i]n the MPS [Metropolitan Police Service] their MIRs [Major Incident Rooms] are very rarely staffed as per MIRSAP [Major Incident Room Standardised Administrative Procedures]’.<sup>64</sup>

44. In normal circumstances, staffing and resource issues should have been referred to DCS David Cook’s line manager, who should, as stated above, have been the Commander of the Homicide and Serious Crime Command. This did not happen. Although there is some evidence of involvement of the Homicide and Serious Crime Command addressing resource issues,<sup>65</sup> funding and cost issues were initially dealt with by various departments of the Metropolitan Police.<sup>66,67</sup>

45. The Abelard Two Investigation required extensive resourcing for activities such as:

- i. the investigation of the murder of Daniel Morgan and the investigation of matters arising during the debriefing of witnesses under the Serious Organised Crime and Police Act 2005;
- ii. surveillance activities and the review of covert evidence;
- iii. the debriefing of witnesses under the Serious Organised Crime and Police Act 2005; and
- iv. the protection of witnesses being debriefed under the Serious Organised Crime and Police Act 2005.

46. It was clear from the investigative strategy (see below, paragraph 143) that the investigation would require significant resources, particularly because of the process of debriefing witnesses under the Serious Organised Crime and Police Act 2005, which required separate accommodation and staffing, and the subsequent requirement to investigate matters disclosed by such witnesses (see section 4.1 below). An Oversight Group (see section 3 below) was established which was responsible for, among other things, monitoring and approving the necessary resources. It was stated in a minute of a meeting of the Oversight Group on 09 August 2006 that the Homicide and Serious Crime Command was responsible for resourcing the investigation.<sup>68</sup>

47. Examination of the resource issues encountered during the investigation show that, not unusually, they were an ongoing concern. In an email to Alastair Morgan, dated 08 October 2011, former DCS David Cook stated, ‘when I took this on again in 2006, the only person who fully supported it was John YATES but we had to scrimp and scrape about for resources all

63 Panel interview with former T/DCI Noel Beswick, p3, 11 December 2018.

64 Panel interview with former T/DCI Noel Beswick, p3, 11 December 2018.

65 Minutes of Operation Abelard Oversight Group meeting, MPS094332001, p11, item 9, 04 September 2006. DCS Andrew Murphy is reported as having requested further resources for Op Abelard. DCS Andrew Murphy reported to Commander David Johnston.

66 Communication Abelard II team, MPS109471001, p9, 23 January 2007.

67 Communication Abelard II team, email, MPS109471001, p36, 05 June 2007.

68 Minutes of Operation Abelard Oversight Group meeting, MPS109471001, p39, 09 August 2006.

*the time[.] Whilst John would say it would happen, the minute you left the office then those that should have made it never made it easy.*<sup>69</sup> Former DCS Cook told the panel in interview that, *'[t]he Metropolitan Police was not a bottomless pit of resources and even when I ran the Homicide Command, when we had a plethora of homicides coming in, as did my colleagues in other commands, you just have to juggle your resources and make best use of it then. And Abelard was no different.'*<sup>70</sup>

48. It is accepted that there may be unavoidable constraints on the resources and arrangements for any criminal investigation. These matters were the responsibility of the Senior Investigating Officer. The absence of the normal reporting arrangements by the Senior Investigating Officer to the Commander of Homicide and Serious Crime Command meant there was no regular route through which such matters could be addressed.

### 2.3.2 Accommodation

49. Former AC John Yates told the Panel in interview that *'the accommodation for the investigation was not ideal but adequate [...].'*<sup>71</sup>

50. An officer who served on the Abelard Two Investigation contacted the Panel to talk about his experiences on the investigation. He said that the Metropolitan Police did not show sufficient commitment in providing for the Abelard Two Investigation, which initially had inadequate accommodation, furniture, IT equipment, and security provision.<sup>72</sup> However, the Deputy Senior Investigating Officer, former T/DCI Noel Beswick, when asked about this during his interview with the Panel, denied that there was a problem saying that *'[t]he computers [he] obtained were from storage at NSY [New Scotland Yard]. They were spare computers held by systems admin, it was a huge time saver for [him] to obtain these machines rather than lengthy requisition processes.'*<sup>73</sup> He also said, *'[w]e were quite well provided for. The HOLMES side of things was the least well provided for.'* In general, he said, *'[t]here was a shortage of staff, the MPS [Metropolitan Police Service] had had to downsize for a number of years and MIRs [Major Incident Rooms] always suffered from not having enough trained staff. Sometimes staff were needed more elsewhere.'*<sup>74</sup>

### 2.3.3 Administration

51. The Abelard Two Investigation was managed using the HOLMES<sup>75</sup> computer system. It was recorded in the Indexing Policy File that the investigation would be staffed in accordance with guidance in operation at the time<sup>76</sup> and that users must be trained to appropriate levels to fulfil the roles.<sup>77</sup> This did not happen.

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69 Email David Cook to Alastair Morgan 08 September 2011.

70 Panel interview of former DCS David Cook, Transcript 5, p2, 26 August 2020.

71 Panel interview with AC John Yates, p6, para 24, 30 August 2016.

72 Panel interview with former DS Danny Dwyer, p3, 22 July 2015.

73 Panel interview with former T/DCI Noel Beswick, p3, 11 December 2018.

74 Panel interview with former T/DCI Noel Beswick, p3, 11 December 2018.

75 Home Office Large Major Enquiry System.

76 Guidance in operation at the time was MIRSAP (Major Incident Room Standardised Administrative Procedures).

77 Index Policy File, MPS071795001, p2, 31 March 2006.

52. When interviewed by the Panel, former T/DCI Noel Beswick said that at the beginning of the enquiry, the Office Manager was the only officer trained in the use of the HOLMES system.<sup>78</sup> The following was recorded in the Indexing Policy File:

*'As this is a confidential enquiry at present with a total staff of 6, and to maintain this confidentiality, DS Peter SUMMERS will undertake the majority of the MIR [Major Incident Room] tasks, overseen by A/DCI BESWICK. Thus, the MIR staffing levels at the beginning of this document will not be filled as per usual.'*<sup>79</sup>

53. DS Peter Summers, while assisted on occasion by several officers, performed the roles of Receiver, Action Manager, Office Manager and at times Research Officer and Indexer. There was no dedicated Statement or Document Reader until the appointment of a Detective Constable as the new Receiver in May 2006.<sup>80</sup>

54. In addition to DS Peter Summers' Major Incident Room duties, examination of the HOLMES system shows that he was allocated 117 investigative actions during the life of the enquiry. This must inevitably have limited the extent to which he was able to fulfil his various duties on the HOLMES computer system during the investigation and must have reduced the amount of quality assurance of the investigative work which he did. For example, he was tasked to secure evidence about the relationships of Margaret Harrison with Jonathan Rees and with Daniel Morgan,<sup>81</sup> as jealousy about Daniel Morgan's continuing relationship with Margaret Harrison was thought to have been a motive for Jonathan Rees to murder his business partner. DS Summers performed the roles of Indexer, Action Allocator, Researcher/Investigator, Receiver, Statement Reader and Office Manager in relation to this action. Three major pieces of information, relating to the relationship between Jonathan Rees and Margaret Harrison, which were available in the files were not identified by DS Summers.<sup>82</sup> The only people who could have checked his work were the Senior Investigating Officer or his deputy. This did not happen. Had the information been identified, it would have added to the circumstantial case against Jonathan Rees and would have provided more scope for questions during his subsequent interviews.

55. No full-time administrator was appointed to carry out tasks such as managing overtime returns, requisition of vehicles and equipment, security of the investigation, and the booking of accommodation for enquiry officers. The Abelard Two Investigation did not record 'Officers' Reports' on their HOLMES account, instead mainly recording reports submitted by detectives as 'Other Documents'.<sup>83</sup>

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78 Panel interview with former T/DCI Noel Beswick, p3, 11 December 2018.

79 Index Policy File, MPS071795001, p12, 31 March 2006.

80 Index Policy File, MPS071795001, p13, 31 March 2006.

81 Action A100 to research and schedule all actions results and evidence known to this enquiry about the three-way affair of Margaret Harrison, William Jonathan Rees and Daniel Morgan, MPS062943001, pp1-3, 26 June 2006.

82 These three pieces of information comprised: 1. Operation Drake witness statement, MPS011043001, 08 March 1989; 2. Contradictions in evidence of phone calls between Jonathan Rees and Margaret Harrison; and 3. Contradictions in information provided by Jonathan Rees at the Inquest and to the Hampshire/Police Complaints Authority Investigation.

83 A Detective Constable performed the role 'Receiver', and Document Reader from 17 May 2006 to 06 May 2008. Another Detective Constable was Exhibits Officer throughout the investigation, assisted by a further Detective Constable until 17 May 2006. An indexer was authorised on 04 September 2006. From 17 June 2008 to 15 October 2010 she had an assistant.

56. The failure of the Abelard Two Investigation to follow national guidelines as detailed in the Major Incident Room Standardised Administrative Procedures<sup>84</sup> in managing their enquiry was in part the product of the very limited number of officers working on the investigation. It is accepted that in London, in 2006, there were many homicides which would have required a significant HOLMES capacity. Despite this, there was a failure by the Oversight Group to provide enough properly trained personnel to use the HOLMES system, in effect replicating one of the major failings of the first investigation of Daniel Morgan's murder in 1987 (the Morgan One Investigation). The HOLMES system is a recognised and important investigative tool. DCS David Cook gave DS Peter Summers very similar, multiple responsibilities to those held by DS Malcolm Davidson some 19 years earlier during the Morgan One Investigation (see Chapter 1, The Morgan One Investigation). This should not have happened. It led to similar consequences in terms of failure to follow through on investigative issues and to quality assure the results of work which had been done. National guidelines, to the development of which the Metropolitan Police contributed, should be complied with, other than in exceptional circumstances.

### RECOMMENDATION

57. The HOLMES system is both an investigative tool and a quality assurance mechanism, but it requires significant resources if it is to be used properly. The Panel recommends that the Metropolitan Police conduct an investigation into the adequacy of resources for administering HOLMES in major crime investigations carried out by the Metropolitan Police.

58. DCS David Cook worked on secondment until December 2007 and then became a full-time employee of the Serious Organised Crime Agency. He explained that he was given a Metropolitan Police laptop 'in 2003-2004' to enable him to work away from the office.<sup>85</sup> He said it was very restrictive and described it as being '*like loading treacle [...] it was physically useless*'.<sup>86</sup> When he retired from the Metropolitan Police in 2007 he gave it to T/DCI Noel Beswick.<sup>87</sup> He explained that after his retirement, he used his personal IT equipment and that he had the most up-to-date antivirus, technical system.<sup>88</sup> He also explained that the Serious Organised Crime Agency did not issue him with a laptop, although he was given a Blackberry phone after 18 months.<sup>89</sup>

59. By 09 August 2006, there were 23 people working on the investigation. Three further officers were working on the debrief of James Ward (see section 6.1 below). Counsel and a press officer had also been appointed.<sup>90</sup>

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84 MIRSAP (Major Incident Room Standardised Administrative Procedures) 2005, p55.

85 Panel interview of former DCS David Cook, Transcript 3, p6, 25 August 2020.

86 Panel interview of former DCS David Cook, Transcript 3, p6, 25 August 2020.

87 Panel interview of former DCS David Cook, Transcript 3, p6, 25 August 2020.

88 Panel interview of former DCS David Cook Transcript 3, p7, 25 August 2020.

89 Panel interview of former DCS David Cook Transcript 3, p16, 25 August 2020.

90 Operation Abelard Oversight Panel Meeting, MPS108270001, pp3-4, 09 August 2006.

60. An outside enquiry team<sup>91</sup> was formed to follow up the various lines of enquiry. By 19 March 2007, this comprised five Detective Constables and two Detective Sergeants.<sup>92,93</sup> DS (later DI) Douglas Clarke was responsible for intelligence matters,<sup>94</sup> and was the liaison officer with the debriefing teams (see paragraph 154 below).

61. Significant surveillance activities were undertaken, and there was a review of covert evidence recovered during earlier enquiries.<sup>95</sup>

62. Arrangements were made for any alleged or suspected criminality which was not relevant to the murder of Daniel Morgan to be referred to the Specialist Crime Directorate.<sup>96</sup> Similarly, potential corruption issues, not relevant to the murder, were to be referred to the Directorate of Professional Standards.<sup>97</sup> Former DCS David Cook told the Panel in interview that the Abelard Two Investigation had identified a number of allegations of police corruption which required investigation, including matters related to specific officers, and had referred them to the Directorate of Professional Standards, but those matters had not been investigated. As a consequence, former DCS Cook said, some such issues were investigated by the Abelard Two Investigation.<sup>98</sup> In January 2021, the Metropolitan Police denied that there had been no investigation of DCS Cook's allegations. The Metropolitan Police stated that there had been at least five separate investigations into allegations of police corruption that arose during the Abelard Two Investigation. The Panel is aware of these investigations and others.

63. Former DCS David Cook was asked whether he had raised the issue of this failure to investigate police corruption allegations with any senior officer, and he responded that he had not, saying that, *'you got to the stage where you just got tired and then you get on with it'*.<sup>99</sup> He also told the Panel, on both occasions on which he was interviewed, that he had put intelligence into the Directorate of Professional Standards *'about a whole host of things and I asked them for a list of all the intelligence they had with Alec Leighton and they came back and said they don't have any. And I said well hold on a minute because I've got a whole pile of it myself, right? So, you didn't necessarily get an answer to your question because people who were answering it didn't always want to tell you what they had.'*<sup>100</sup>

64. The Abelard Two Investigation worked in close liaison with Stuart Sampson of the Crown Prosecution Service,<sup>101</sup> because some witnesses were to be debriefed under the then new Assisting Offender arrangements contained in the Serious Organised Crime and Police Act 2005.<sup>102</sup> Nicholas Hilliard QC led the Prosecution during the trial process assisted by Jonathan Rees, barrister, who had previously acted as junior counsel during the Abelard One/Morgan Two Investigation.

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91 A team dedicated to carrying out enquiries outside police premises.

92 The enquiry team was led by a Detective Sergeant.

93 Minutes of office meetings, MPS071803001, p31, 19 March 2007.

94 Minutes of office meetings, MPS071803001, p31, 19 March 2007.

95 Operation Abelard Oversight Panel Meeting, MPS108270001, p4, 09 August 2008 – DS Danny Dwyer is stated as being the *'DPS Liaison and CMP Manager'*. CMP means Covert Monitoring Post. It is a secure room where the police would monitor a technical device, an audio probe or camera, installed as part of an investigation.

96 Operation Abelard Oversight Panel Meeting, MPS108270001, p3, 09 August 2009 – matters were referred to Commander Shaun Sawyer and investigated by D/Supt Roger Critchell.

97 Operation Abelard Oversight Panel Meeting, MPS108270001, p3, 09 August 2009.

98 Panel interview of former DCS David Cook, Transcript 1, pp3-4, 25 August 2020.

99 Panel interview of former DCS David Cook, Transcript 1, p4, 25 August 2020.

100 Panel interview of former DCS David Cook, Transcript 2, pp4-5, 25 August 2020.

101 Stuart Sampson was referred to in various documents disclosed to the Panel as the *'Special Casework Lawyer'*, *'CPS Prosecutor'*, *'reviewing lawyer'*, and *'CPS Lawyer'*.

102 Operation Abelard Oversight Panel Meeting, MPS108270001, p3, 09 August 2009.



65. A/DCI Noel Beswick and DS Gary Dalby, who had joined the investigation on 22 May 2006,<sup>103</sup> examined the accounts given by the Assisting Offenders and sought corroborating evidence to prove or disprove the accounts which had been given. Consequential enquiries were conducted.<sup>104</sup> Those accounts included material relating to the murder of Daniel Morgan and many other very serious crimes. This involved very extensive investigative work, including underwater searches in the River Thames during which a securely wrapped Beretta gun was found, and the review of multiple serious crime investigations. This work required considerable resources which were made available.

66. Staff numbers increased during the investigation to enable the review of a large volume of material for the purposes of disclosure, and an audit of existing exhibits. A team of dedicated disclosure officers were responsible for reviewing all previous material and identifying that which should be disclosed. A review of all existing evidential exhibits was carried out, which by 2007 were reported to number over 14,000.<sup>105</sup> There were normal changes and fluctuations in staffing levels over the course of the investigation. By April 2009, the staff working on the investigation numbered 17, including a civilian researcher and analyst.<sup>106</sup>

67. The management and disclosure of documents for the purposes of prosecution was led by T/DCI Noel Beswick. DS Gary Dalby assisted him and later became line manager for the officers working on the disclosure team.<sup>107</sup> The full HOLMES computer disclosure package was not used during the Abelard Two Investigation. Former DCS David Cook said that resource inadequacy meant that the investigation could not resource the indexing of the investigation materials which required to be disclosed into the HOLMES system, and that they had to devise another disclosure system.<sup>108</sup>

68. Furthermore, in relation to the management of exhibits, former T/DCI Noel Beswick explained to the Panel that to have used the HOLMES system, all the exhibits from previous investigations would have had to be entered onto the HOLMES system. However, he said *'only about 200 were of potential significance so it would not have been cost effective to put them all on. The practical way of dealing with the exhibits was to put them all onto a spreadsheet which served us well.'*<sup>109</sup> An Excel spreadsheet was made available to the Panel. One section referred to exhibits only and comprised 16,413 items.

69. A computer system and disclosure programme were installed on 09 October 2006, and work on case building and preparations for disclosure started on 07 November 2006. A third barrister, Heather Stangoe, was appointed as Disclosure Counsel to advise on all matters relating to disclosure, and to review all previous investigation material.<sup>110</sup>

70. On 07 July 2008, it was recorded that *'[q]uality issues have arisen in respect of the Holmes account. This [is] as a consequence of staff retirement and transfer.'*<sup>111</sup> The possibility of acquiring staff from other Metropolitan Police departments was discussed.<sup>112</sup> During the 'Office

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103 Witness statement of DS Gary Dalby, MPS1097090001, p2, 11 August 2017.

104 Minutes of office meetings, MPS071803001, p17, 07 November 2006.

105 Report to the Crown Prosecution Service, MPS103338001, p183, 13 June 2007.

106 Metropolitan Police email chain from former DCS David Cook to AC John Yates, EDN001119001, 23 April 2009.

107 Witness statement of DS Gary Dalby, MPS1097090001, p2, para 2, 11 August 2017.

108 Panel interview of former DCS David Cook, Transcript 3, pp1-2, 25 August 2020.

109 Panel interview with former A/DCI Noel Beswick, p4, 11 December 2018.

110 Operation Abelard Oversight Panel, MPS108270001, p3, 09 August 2009.

111 Email from former T/DCI Noel Beswick re Oversight Meeting, MPS106302001, p2, 07 July 2008; Collection of documents re Abelard Gold Group minutes/ Oversight minutes, MPS109606001, p77, 07 July 2008.

112 Collection of documents re Abelard Gold Group minutes / Oversight minutes, MPS109606001, p77, 07 July 2008.

Meeting' on 23 July 2008 ongoing '*problems with the HOLMES account*' were recorded, and it was stated that T/DCI Noel Beswick had arranged a meeting with other colleagues<sup>113</sup> to assist with the problem.<sup>114</sup>

## 2.4 Family liaison arrangements

71. Family liaison arrangements during the Abelard Two Investigation were unusual and not consistent with national policy or the Metropolitan Police policy at the time.<sup>115,116</sup>

72. National police policy in relation to family liaison requires that the Senior Investigating Officer record a strategy for family liaison. The objectives of family liaison are defined in the Murder Investigation Manual as typically including:

- i. *'Gathering evidence and information from the family in a manner which contributes to the investigation and preserves its integrity;*
- ii. *Identifying support agencies able to provide appropriate care and support to the victim's family;*
- iii. *Ensuring that family members are given information about support agencies and that referrals are made to Victim Support and other agencies in accordance with the family's wishes;*
- iv. *Securing the confidence and cooperation of a victim's family which can positively impact on the wider issues of community trust and confidence, as well as bringing positive benefits to the investigation;*
- v. *Providing the family with as full and up-to-date information as possible about the crime and its investigation;*
- vi. *Obtaining full family background and other relevant details as directed by the Senior Investigating Officer; and*
- vii. *Ensuring the investigation is not compromised by the injudicious disclosure of information.'*<sup>117</sup>

73. National policy requires that the Senior Investigating Officer must:

- i. be directly involved in the selection of family liaison officers;
- ii. appoint trained family liaison officers;
- iii. give the family liaison officers a written strategy to work to on each deployment; and
- iv. support and regularly monitor the health and welfare of family liaison officers.<sup>118</sup>

113 The support staff manager of the Metropolitan Police HOLMES Support team and someone from 'MRG'

114 Minutes of office meetings, MPS071803001, p74, 23 July 2008.

115 Metropolitan Police Family Liaison Policy and Fundamental Guidelines, MPS109906001, pp1-36, 23 March 2001.

116 Murder Investigation Manual 2006; ACPO Family Liaison Strategy Manual 2003; The Home Office (2005) Code of Practice for Victims of Crime.

117 Murder Investigation Manual 2006, para 16.3.1.

118 Murder Investigation Manual 2006, para 16.4.

74. National policy recognises that complex circumstances may require the appointment of multiple or deputy family liaison officers. A full record should be kept of all interactions with the family.<sup>119</sup>

75. National policy also provides for appropriate interactions between the Senior Investigating officer and the family of the murder victim.

76. On 20 April 2006, during an office meeting, DCS David Cook said that, '*he was the FLO [Family Liaison Officer] for the MORGAN family (although DS OLIVER is still liaising)*'.<sup>120</sup> DCS Cook was in frequent contact with Alastair Morgan. DCS Cook did not keep a log of his interactions with Alastair Morgan. The Abelard Two Investigation kept a record of its contact with Isobel Hülsmann, Jane Morgan and Alastair Morgan, but it contained only a summary overview of contact.<sup>121</sup> From 30 June 2006, a Family Liaison Officer was appointed for Iris Morgan, Sarah Morgan and Dan Morgan, and a Family Liaison Log was kept.<sup>122</sup>

77. While there is no specific provision precluding the appointment of a Senior Investigating Officer as Family Liaison Officer, the structures, processes and policies of family liaison make it quite clear that the Senior Investigating Officer is responsible for the management and appointment of the Family Liaison Officer and indicate that the Family Liaison Officer must be a separate person from the Senior Investigating Officer. DCS David Cook should not have acted as Family Liaison Officer.

78. On 26 April 2007, during an Oversight meeting, DAC Janet Williams expressed concern that '*DC [DCS David Cook] may be overreaching himself in relation to taking on additional FLO [Family Liaison Officer] duties.*'<sup>123</sup> DCS Cook responded, '*that this was entirely commensurate with his role as SIO [Senior Investigating Officer] and that he had a team of FLO's [sic] deployed, however Isobel's allocated FLO was long term sick hence DC's short term commitment*'.<sup>124</sup> When arrests were planned in April 2008, special family liaison arrangements were made.<sup>125</sup>

79. Former DCS David Cook was asked at interview by the Panel if he had considered whether his role as Family Liaison Officer, when he was simultaneously Senior Investigating Officer during the Abelard Two Investigation, might have interfered with his role as Senior Investigating Officer. He told the Panel that he had previously had regular contact with family members in other investigations of serious crime. He said:

*'[w]e didn't have a designated FLO, so let's not contradict things, for the family in Abelard Two. It came to me and John Yates had expected me to deal with the family. [...] Danny Dwyer did some stuff for us but the majority of it came to me because when Alastair [Morgan] phoned up, he wanted to speak to me. [...]*

119 Metropolitan Police Family Liaison Policy and Fundamental Guidelines, MPS109906001, p23, 23 March 2001.

120 Minutes of office meetings, MPS071803001, p3, 20 April 2006.

121 Family Liaison meeting notes in respect of the Morgan family, MPS071361001, pp1-6, 18 February 2011.

122 Document D281, Family liaison log for Morgan family, MPS102357001, 30 June 2006 – 27 May 2009. The Family Liaison Officer (FLO) was DC Caroline Linfoot from 30 June 2006, and her deputy was a Detective Constable. From 20 July 2009 they were replaced by two further Detective Constables. (See D3504 FLO log for Morgan family, MPS105446001, commenced 20 July 2009. The last entry on the Family Liaison log was dated 13 June 2011.)

123 Collection of documents re Abelard Gold Group minutes/ Oversight minutes, MPS109606001, p39, para 6, 26 April 2007.

124 Collection of documents re Abelard Gold Group minutes/ Oversight minutes, MPS109606001, p39, para 6, 26 April 2007.

125 Action A1820, Identify and resource FLO requirements for the custody period, MPS068264001, p1, 15 April 2008.

*'There's a lot of things I wasn't comfortable with but it seemed to work, so you accepted it [...]. And this was a case like no other I'd ever experienced before, so in many ways we were in uncharted territory when it came to the family.'*<sup>126</sup>

80. Former DCS David Cook was asked at interview whether it would have been easier for him if someone else had been the Family Liaison Officer. He replied: *'Yes, it would've made it immensely easy, but the decision by John Yates was for me to deal with the family.'*<sup>127</sup> Former AC John Yates told the Panel in November 2020 that, *'I acknowledge that family liaison arrangements in this case were unusual. It was one of the exceptional features of the enquiry that family liaison was conducted by such senior officers. I believe that there was no practical alternative.'* He also said that it would have been *'impractical and counter-productive'* for him and DCS Cook to have delegated responsibility for the family in this case and could have been viewed by the family of Daniel Morgan as a sign of *'disrespect and dereliction of duty'*. However, there were designated Family Liaison Officers for the members of the family other than Daniel Morgan's mother and brother. In November 2020, former AC Yates said to the Panel that that former DCS Cook had never expressed any concerns or objections to him about his family liaison role.

81. The Panel is not convinced by the arguments set out by former DCS David Cook and former AC John Yates as to why the family liaison role was treated in this way.

82. Former DCS David Cook was asked about the extent of his disclosure to the family of Daniel Morgan, some of which, it was put to him, was inappropriate. He responded, *'[a]bsolutely right, some people may feel it's inappropriate, some people may feel under the circumstances it was the right thing to say. That's all a very subjective approach to it. And at the end of the day, being defensive, it was me that was given the job of dealing with it.'*<sup>128</sup>

83. Former DCS David Cook was asked about an occasion on which Isobel Hülsmann had telephoned AC Cressida Dick in July 2014. She spoke to AC Dick's staff officer. In fact, she phoned the staff officer twice, apparently very anxious. She alleged that former DCS Cook had provided her son Alastair Morgan with a *'thumb drive'* containing what she said was *'Top Secret material'*. Former DCS Cook responded, *'I provided Alastair with information because I had been advised not to speak to the Panel and I wanted to, you know, basically keep Alastair informed of certain things, and I'm not going to go any further than that. No, actually I didn't provide Alastair, I spoke with Raju Bhatt [Alastair Morgan's solicitor] about it.'*<sup>129</sup>

126 Panel interview of former DCS David Cook, Transcript 4, p5, 25 August 2020.

127 Panel interview of former DCS David Cook, Transcript 4, p10, 25 August 2020.

128 Panel interview of former DCS David Cook, Transcript 4, pp6-7, 25 August 2020.

129 Panel interview of former DCS David Cook, Transcript 4, pp11-12, 25 August 2020.

84. The family liaison arrangements in the case of Alastair Morgan were not consistent in any respect with the requirements of the Metropolitan Police Family Liaison Policy and Fundamental Guidelines. DCS David Cook as the Senior Investigating Officer should not have acted as Family Liaison Officer for Alastair Morgan and other members of the Morgan family, as this was not consistent with his responsibilities for the conduct of the whole investigation, nor was it in accord with normal procedures. The Panel has seen no record of family liaison logs maintained by DCS Cook. Moreover, analysis of the material available has shown that DCS Cook shared information which would in normal circumstances have been kept confidential, and of which a Family Liaison Officer would have been unaware.

85. The effect of DCS David Cook acting as Family Liaison Officer, as well as his ongoing work outside the Metropolitan Police, was to limit his capacity to deal effectively with the matters for which he was responsible. DCS Cook had only limited time to allocate to the investigation, and yet he spent time acting as Family Liaison Officer which should have been spent giving strategic direction to the Abelard Two Investigation. DAC/AC John Yates should have ensured that this did not happen.

### RECOMMENDATION

86. The Metropolitan Police should ensure that the role of the Family Liaison Officer is never carried out by the Senior Investigating Officer of an investigation. There is an inherent conflict between these two roles.

## 3 The governance of the investigation

87. In normal circumstances, a Senior Investigating Officer is answerable to their line manager. However, as stated above, this did not happen during the Abelard Two Investigation. At interview with the Panel, former DCS David Cook articulated his experience of the governance of the investigation by saying that he was answerable to DAC John Yates, and that the Directorate of Professional Standards were involved, as was the Homicide Commander who provided the resources. At different times he was also answerable to the Metropolitan Police Authority and the Criminal Cases Review Commission.<sup>130</sup>

88. Former AC John Yates told the Panel that the governance structure within the Abelard Two Investigation provided DCS David Cook with access to advice and support from very senior figures across a range of disparate groups within the Metropolitan Police.

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<sup>130</sup> Panel interview with former DCS David Cook, Transcript 2, p7, 25 August 2020.



89. An Oversight Group (on occasion referred to as a 'Gold Group')<sup>131</sup> was established for the re-investigation of the murder of Daniel Morgan. This Group was not actually a Gold Group as defined by the Murder Investigation Manual, as it did not have the requisite membership; in particular it had no members representing staff associations. More importantly, it did not meet regularly throughout the five years of the Abelard Two Investigation. DAC/AC John Yates was not only the Chair of the Gold Group, he was also the de facto line supervisor for the Senior Investigating Officer, DCS David Cook.

90. The Terms of Reference for the Gold Group were as follows:

*'To ensure that all issues arising from the current investigation are managed and co-ordinated in an appropriate and timely manner. The purpose is: –*

- 1. To be the forum for dialogue and debate where all interested parties can engage and agree solutions.*
- 2. To identify and manage identified risk(s) across all relevant Directorates such as the Department of Professional Standards and Specialist Crime Directorate and to agree an approach as to how these various matters are addressed, who is responsible and likely timeframes.*
- 3. To ensure that any issues, including risks, which may affect the Metropolitan Police Service are addressed in an appropriate manner.*
- 4. To ensure that relevant operational management, staffing, accommodation and resourcing issues are identified and addressed.*
- 5. To identify any learning opportunities.*
- 6. To consider and advise in relation to the media strategy.*
- 7. To consider any relevant issues in respect of the family of Daniel Morgan and any support required either for them and/or the SIO [Senior Investigating Officer].'<sup>132</sup>*

91. Various people attended the Oversight Group including DAC (later AC) John Yates, DAC Janet Williams, Commander Sue Akers of the Directorate of Professional Standards, Commander David Johnston or DCS Andrew Murphy of the Homicide and Serious Crime Command, Commander Shaun Sawyer of the Specialist Crime Directorate, DCS David Cook, T/DCI Noel Beswick, and the Directorate of Legal Services. Although it was recorded that meetings would be held on a monthly basis, this did not happen. The number of those attending the Oversight Group varied.

92. It was stated that Commander Cressida Dick (who later became Deputy Assistant Commissioner and then Assistant Commissioner during the period of the Abelard Two Investigation, and ultimately appointed to Commissioner) was to attend around 'ethical issues'.<sup>133</sup> Apart from the inaugural oversight meeting on 09 August 2006, the Panel has seen no evidence that Commander Dick was requested to attend any other oversight meeting to deal with any ethical issues, and she did not attend subsequent meetings.

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<sup>131</sup> Gold Groups, called Gold Support Groups, are provided for in the Murder Investigation Manual, p78, para 3.3.3. They have specific required membership.

<sup>132</sup> Operation Abelard Oversight Panel Meeting, MPS108270001, p2, 09 August 2006.

<sup>133</sup> Communication Abelard II team, MPS109471001, p38, 09 August 2006.

93. The Panel has seen eight sets of minutes of the Oversight Group meetings held during the Abelard Two Investigation.<sup>134</sup> The Panel has seen no evidence of Oversight Group meetings after July 2008, when charges had been laid against Jonathan Rees, former DS Sidney Fillery, Glenn Vian, Garry Vian and James Cook; the investigation continued and there were serious ongoing problems.<sup>135</sup>

94. The Panel notes that on 15 January 2010, Commander Simon Foy, in an email to senior officers,<sup>136</sup> stated:

*'In anticipation of our reaching a point after the ruling on the 18th that we move for trial preparation etc. I am going to establish what I am describing as a "Silver Governance" structure around the mechanics and process of Abelard. I have been discussing this with John Yates et al for some time, and this latest phase that we will hopefully be moving on to will give me the opportunity to carry it out.*

*'In doing this I am not confusing two other significant roles:*

- *The overall role of John Yates as Gold – in terms of his lead and responsibility for the overall investigation. I will report the issue from this silver group to him.*
- *The normal line management/resource and even investigative support and direction that is in place between Noel [T/DCI Beswick] as the SIO [Senior Investigating Officer] and Hamish C [DCS Campbell] – as per normal SCD1 arrangements.*
- *Dave Cook continuing to remain in his role overall in the investigation.*

*'The idea is to get a structure governance and process to the issue that sit somewhere between these three above. I think it is a gap that has needed filling for some time.'*<sup>137</sup>

95. The Panel has seen evidence that the 'Silver Governance' structure was established, and it is known that it met on 19 March 2010 and was chaired by Commander Simon Foy.<sup>138</sup> No minutes of this or any other Silver Group meeting can be found. Those initially appointed to the Silver Group by Commander Foy included T/DCI Noel Beswick, 'as the SIO and responsible for the day to day running of the investigation'; an officer to deal with issues emerging from the debrief of Gary Eaton; an officer to lead on management of any confidential information; D/Supt Roger Critchell, whose role was to advise on any security issues which might emerge; and a person from the Directorate of Professional Standards for liaison on matters pertinent to that Directorate.<sup>139</sup>

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134 Communication Abelard II team, MPS109471001, pp37-40, 09 August 2006; Communication Abelard II team, MPS109471001, pp41-43, 04 September 2006; Communication Abelard II team, MPS109471001, p44, 10 November 2006; Communication Abelard II team, MPS109471001, pp7-9, 23 January 2007; Collection of documents re Abelard Gold Group minutes/Oversight minutes, MPS109606001, pp29-31, 12 March 2007; Collection of documents re Abelard Gold Group minutes / Oversight minutes, MPS109606001, pp37-39, 26 April 2007; Collection of documents re Abelard Gold Group minutes/Oversight minutes, MPS109606001, pp21-28, 02 July 2007; and, email from T/DCI Noel Beswick re Oversight Meeting, MPS106302001, p2, 07 July 2008, MPS109606001, pp75-78, 07 July 2008.

135 There is no requirement as to the frequency of Gold Group meetings in the Murder Investigation Manual 2006.

136 T/DCI Noel Beswick, DCS Hamish Campbell, Commander Sue Akers, AC John Yates, and other senior officers. Commander Simon Foy forwarded the same email to David Cook, 6.42 pm, EDN000782001, 15 January 2010.

137 Email from Commander Simon Foy, EDN000782001, 9.32 am, 15 January 2010.

138 Email from DI Douglas Clarke, EDN002197001, 19 March 2010.

139 Email from Commander Simon Foy, EDN000782001, 9.32 am, 15 January 2010.

96. The Panel has not seen minutes of these meetings, but there are a significant number of communications evidencing close involvement by Commander Simon Foy and DCS Hamish Campbell in elements of the Abelard Two Investigation during this period. For example:

- i. DCS Campbell authorised additional resources as requested in January 2010 by T/DCI Noel Beswick.<sup>140</sup>
- ii. Commander Foy arranged additional resources at the request of former DCS David Cook.<sup>141</sup>
- iii. Commander Foy approved a decision on 24 March 2010 limiting the debrief of Person J5 to clarification over issues previously raised.<sup>142</sup>
- iv. Commander Foy was involved with the aftermath of the release of the Defendants on bail in March 2010 when it was necessary to assess any risk to several hundred witnesses, police officers, and others, and to take necessary action following that assessment.<sup>143</sup>
- v. Former DCS Cook emailed Commander Foy raising a matter to be discussed at the Silver Group meeting in April 2010. It is clear from the content of this email that former DCS Cook did not intend to attend that meeting, but he told Commander Foy that T/DCI Beswick was fully informed about the matter.<sup>144</sup>

97. AC John Yates, who had been promoted from DAC, announced his intention to resign as AC in July 2011.<sup>145</sup> In an interview with the Panel, he described himself as having been *'the ACPO [Association of Chief Police Officers] overseer and chair of the Gold Group who was responsible for strategy, resourcing and interface with the more challenging members of the MPA [Metropolitan Police Authority] and for supporting the family'*.<sup>146</sup> AC Yates retired in November 2011.<sup>147</sup>

98. Former DCS David Cook described his experience of the governance structure saying that he did not have the support above him that he needed. He explained that his requests for resources would be granted by DAC (later AC) John Yates, and then the resources would not be made available. Former AC Yates disputed former DCS Cook's allegation that the necessary resources were not made available, saying that resourcing issues were regularly reviewed at Oversight Group meetings. However, these meetings did not continue until the end of the investigation. There is evidence that not all of the support sought in the Oversight Group was provided. This is not uncommon, as police forces generally face competing demands for resources.

99. Former DCS David Cook said, *'I had any number of people telling me what I should be doing in relation to the investigation, and of course that brought me into conflict with them.'*<sup>148</sup> DCS Cook described this situation as *'the politics'*, saying that he saw his role as being to keep

140 Email correspondence, MPS109586001, pp81-84, 29 January 2020.

141 Email former DCS David Cook to Commander Simon Foy, MPS109586001, p16, 26 April 2010.

142 Decision by Commander Simon Foy, MPS109586001, pp31-32, 24 March 2010.

143 Emails and risk assessment form, MPS109586001, pp54-80, March 2010.

144 Emails David Cook to Simon Foy, MPS109586001, p19, 20 April, 2010.

145 Document produced for DMIP by researching the MPS Intranet archive for details of career moves, ranks and positions of AC John Yates, AC Alan Brown and DAC Janet Williams, MPS109675001, p6, 23 November 2016.

146 AC John Yates, Notes of meeting, para 17, 30 August 2016.

147 Briefing Note: Abelard minutes, MPS109587001, p7, 08 March 2012.

148 Panel interview with former DCS David Cook, Transcript 2, p8, 25 August 2020.

*'the politics'* away from the team and that they just got on with trying to *'resolve the murder'*.<sup>149</sup> Former DCS Cook also said that after he left the Metropolitan Police in December 2007, he could see that there was a determination by the Metropolitan Police *'to have a greater say, and certain interference point of view in terms of Abelard. That then forced me to become involved whilst retired, as a consultant SIO [Senior Investigating Officer], back into the politics again.'*<sup>150</sup>

100. Former DCS Cook's description of the process of exercising proper governance and audit control over the Abelard Two Investigation as *'interference'* is not justified, and it does not demonstrate any understanding of the appropriate processes for the governance of an investigation.

101. The 33 months between July 2008 and the collapse of the prosecutions in March 2011 were of great importance, yet in the papers available to the Panel, there is no evidence of an Oversight Group meeting (other than the meetings conducted by Commander Simon Foy) after July 2008.

102. The issues for which the Oversight Group was responsible in terms of resourcing, media management, and even risk assessment, were not dealt with on a regular and structured basis by that Group. The fact that AC John Yates had made it clear to Commander Simon Foy that he (AC Yates) remained in strategic control contributed to the situation in which there was no overall strategic leadership. Despite this, it is evident that Commander Foy and DCS Hamish Campbell made every effort to manage and control the very difficult issues of which they became aware.

### 3.1 Concerns raised by senior Metropolitan Police officers about the management of the investigation

103. The material available indicates that significant unease emerged at an early stage, at very high levels in the Metropolitan Police, about the governance of the Abelard Two Investigation.

104. Commander David Johnston, Head of Homicide and Serious Crime, to whom DCS David Cook would normally have reported, was initially unaware of the ongoing Abelard Two Investigation. He became aware of it through a conversation with his deputy, DCS Andrew Murphy. He discovered that DAC John Yates had acquired the Abelard Two Investigation as an unsolved murder under his role as Head of Professional Standards, and that he had appointed DCS Cook to manage it. Former Commander Johnston said that he had asked DAC Yates why the Homicide and Serious Crime Command was not running the investigation, and DAC Yates had told him that because of its nature, DAC Yates had been careful to select people outside the Homicide teams who had not previously worked on the Daniel Morgan case, and

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<sup>149</sup> Panel interview with former DCS David Cook, Transcript 2, p8, 25 August 2020.

<sup>150</sup> Panel interview with former DCS David Cook, Transcript 2, p11, 25 August 2020.

that the reassurance of the family was paramount. However, a number of officers who worked on the Abelard One/Morgan Two Investigation also worked on the Abelard Two Investigation, for example, Commander Shaun Sawyer and DCS Cook. Former Commander David Johnston told the Panel that he had been asked by DAC Yates to undertake the oversight role of Gold Commander<sup>151</sup> (he had not been asked to chair the Oversight Group). By 15 November 2006, he had discussed the investigation with DAC Yates and had expressed concerns about the way in which the two debriefs (of James Ward and Gary Eaton) were being conducted.<sup>152</sup>

105. Commander David Johnston said he attended the Abelard Two Investigation office at 7.30 am one morning shortly after taking over as ‘Gold Commander’, and identified a number of concerns, particularly in relation to the way in which the debriefing of witnesses was being conducted. He drew his concerns to the attention of DAC John Yates in an email on 14 November 2006 and suggested a review of the investigation, including a review of the conduct of the debriefs. He stated,

*‘Daves [sic; DCS Cook] continued contact with one or more of these PWs is a concern and one i [sic] believe we need to include in the review and deal with now.*

*‘I also have some concerns re: the wider review issues, this job has not been subject of a formal review since dave [sic] restarted it and we would review any other job routinely. I would rather be reassured by an early review than find a problem down the line that is difficult to rectify later. I see the review as quality assuring this investigation and I dont [sic] anticipate any major issues arising from it.’<sup>153</sup>*

106. On 15 November 2006, DAC John Yates emailed DCS David Cook. He said:

*‘I have now met with [Commander] Dave Johnston to clarify finally the issues around review. For the record, DJ made a persuasive case that there should be a review of not only the PW issues but also around lines of enquiry. I am not with him on the lines of enquiry review at this stage. I consider that the active nature of the enquiry and the close involvement of the CPS [Crown Prosecution Service] and Counsel negates such a need at the present time, although I would not rule it out for the future should I consider it necessary. What I have asked DJ to do is what he would normally do anyway which is to informally discuss with you the current lines of enquiry and any other relevant matters pertaining to the investigation and for him to advise and challenge as appropriate. I consider this to be normal business.’<sup>154</sup>*

107. DAC John Yates said that he was amending the Terms of Reference of the Operational Security Review which had been completed on 02 November 2006 for James Ward, to include the following:

*‘– What are the systems and processes in place regarding [James Ward] and [Gary Eaton] and is policy being followed*

*– A view around the appropriateness or otherwise of firewalls*

*– A review of the documentation to support the above issues.’<sup>155</sup>*

151 Panel interview with David Johnston, p1, 29 September 2016.

152 Email correspondence, EDN001126001, 09-15 November 2006.

153 Email correspondence, EDN001126001, 14 November 2006.

154 Email correspondence, EDN001126001, 15 November 2006.

155 Email correspondence, EDN001126001, 15 November 2006.



108. Former Commander David Johnston explained to the Panel some of the concerns about the consequences of the lack of proper governance which he had previously explained to AC John Yates. As an example, he told the Panel that he had noted over 500 telephone calls on itemised billing, which had been made by DCS David Cook to a witness, but he could see no record of them on the investigation's HOLMES database. When he asked DCS Cook where the records were, DCS Cook stated that there were none.<sup>156</sup> When asked about this in interview, former DCS Cook told the Panel that DC Caroline Linfoot had been responsible for the development of this particular witness and he did not remember having any telephone call with that witness.<sup>157</sup> Former T/DCI Noel Beswick told the Panel that the witness was provided with the telephone number of DCS Cook from 22 December 2006. However, the Panel has seen no evidence of contact between DCS Cook and the witness.

109. Former Commander Johnston told the Panel in interview that he told DCS David Cook not to initiate any further contact with any of the witnesses and that if the witnesses got in touch with him, he was to make a written record of the fact. Former Commander Johnston said that he believed that the contact would be used to undermine the credibility of the witnesses who would be questioned closely in the witness box when the case came to court. He said that DCS Cook had justified the contact with the witness by stating that they were 'shaky' and needed a great deal of support. Former Commander Johnston stated that DCS Cook 'did not seem to understand' that the huge amount of contact on the itemised billing could be interpreted as an attempt to coach the witness and it might be suggested that the witness had been offered inducements to give evidence.<sup>158</sup>

110. The Panel has not found evidence in the material available to it of the calls allegedly made by DCS David Cook to the witness. In January 2021, former DCS Cook made clear to the Panel that he strongly denied making these calls, that his billing records are in the possession of the Metropolitan Police as part of Operation Megan Two and he does not recollect even having a conversation with Commander David Johnston about the witness.

111. Former Commander David Johnston told the Panel that he felt equipped to oversee the Abelard Two Investigation, as he had experience of running several enquiries in which there had been allegations of corruption surrounding the original investigation. He said he told DAC Janet Williams that the Abelard Two Investigation would have been better run within the Homicide and Serious Crime Command.<sup>159</sup> He had a further discussion with DAC Yates asking him to transfer responsibility to the Homicide and Serious Crime Command, but DAC Yates refused. He then expressed his concerns to DAC Williams saying that he had been asked to be Gold Commander but that he could not make any of the decisions on the investigation, and it was not being run effectively.<sup>160</sup>

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156 Panel interview with David Johnston, p1, 29 September 2016.

157 Panel interview of former DCS David Cook, Transcript 2, pp12-13, 25 August 2020.

158 Panel interview with former Commander David Johnston, p2, 29 September 2016.

159 Panel interview with former Commander David Johnston, pp1-2, 29 September 2016.

160 Panel interview with former Commander David Johnston, p2, 29 September 2016.

112. Commander David Johnston acted properly in bringing his concerns about the investigation to DAC John Yates, and to his line manager DAC Janet Williams.

113. A note of a meeting of the Oversight Group on 23 January 2007 recorded that Commander David Johnston was to be invited to attend all future meetings in his *'operational oversight role'*.<sup>161</sup> After a subsequent meeting of the Oversight Group in March 2007, DAC Janet Williams wrote to AC John Yates, saying, *'[a]s you are aware concerns have been raised regarding the governance of this most high profile and costly investigation'*. She went on to say that *'[t]he reputational risks to the MPS [Metropolitan Police] and the failure to detect those responsible are significant'*.<sup>162</sup>

114. In her email, DAC Janet Williams proposed two possible options for the future governance of the investigation. The first option was:

- i. to maintain the *'status quo with one variation'*: AC John Yates, through the Oversight Group, should retain overall responsibility for the investigation.<sup>163</sup> DCS David Cook should continue to be the Senior Investigating Officer reporting directly to AC Yates on all matters. The variation suggested was that the *'Homicide Command senior management have no operational control or organisational involvement'* other than to *'continue to provide [...] resources within the agreed fixed budget [...] to include the cost of personnel, transport, etc. Details to be agreed between Homicide Command Resources Manager and the SIO [Senior Investigating Officer].'*<sup>164</sup>

The second option, which DAC Williams strongly recommended, was:

- ii. that AC John Yates should retain overall control via the Oversight Group, managing liaison with the Metropolitan Police Authority, managing reputational risk, the media strategy and legal implications for the Metropolitan Police, and that Homicide Command should have full operational control of the investigation through a Gold Group chaired by Commander David Johnston, who would then report regularly to the Oversight Group. She proposed that the Gold Group *'would accept responsibility for the implementation of the overall strategy for the investigation, personnel, cost controls, subjects in the de-briefing scheme (including their extended family) and operational security [...].'*<sup>165</sup>

115. DAC Janet Williams said that she was aware that the second option was a radical change to the existing arrangements.<sup>166</sup> However, she felt that the preferred proposed structure would enable DCS David Cook to concentrate on the investigation, and at the same time enable better management of corporate risk, while mitigating the amount of intrusive leadership and control required of AC John Yates.<sup>167</sup>

161 Communication Abelard II team, MPS109471001, p9, 23 January 2007.

162 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p34, undated.

163 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p34, undated.

164 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p34, undated.

165 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p35, undated.

166 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p35, undated.

167 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p35, undated.

116. The evidence shows that by this point in March 2007, DCS David Cook was effectively involved in the debrief of an Assisting Offender and he was also the Senior Investigating Officer for the murder investigation, while working full-time elsewhere.<sup>168</sup> DAC Janet Williams correctly cited DCS Cook's involvement in the debrief of two Assisting Offenders as an example of the lack of proper governance, saying that the Senior Investigating Officer could not objectively manage the conflicting issues arising, and that this issue needed to be dealt with, whether the first or second options were taken forward.<sup>169</sup>

117. On 30 March 2007, a year after the investigation started, AC John Yates rejected both DAC Janet Williams' proposals, saying that he was '*happy to slightly expand the oversight arrangements*' and that he welcomed '*views on what the agenda should possibly include*'.<sup>170</sup> He acknowledged that aspects of the governance of the investigation had required attention but expressed satisfaction that they had been addressed, saying:

*'There had been an expectation on my part that Cdr Dave JOHNSTON was already fulfilling many of the roles that your proposed Gold Group now intends. The fact that this hasn't happened is unfortunate but far from disastrous. Lessons to be learnt all round, myself included.*

*'This is an inquiry that has had very significant input from both the CPS [Crown Prosecution Service] and Counsel at all stages and they are very comfortable with, and indeed have endorsed, the investigative strategy that is being followed. The targeted reviews carried out have quite properly revealed matters that require attention and I am satisfied that these matters are being addressed. What I do not think would be wise is to overlay new policy and guidance now on a case that at its inception did not have the benefit of such (now identified) good practise [sic]. As I stated, it is my view that new practise [sic] and organisational learning identified now do not invalidate matters that have operated under a different regime and/or set of circumstances.'*<sup>171</sup>

118. AC John Yates could not see the merit in inserting in such a formal way, at this very late stage, another level of oversight.<sup>172</sup>

119. As stated above (see paragraph 32), Stuart Sampson had attended a meeting between AC John Yates and DCS David Cook at which the question of whether DCS Cook could manage the Abelard Two Investigation in addition to his work at the Serious Organised Crime Agency was raised. DCS Cook had assured both AC Yates and Stuart Sampson that he could cope with both roles.

120. AC John Yates made clear his intention to retain overall responsibility for the investigation, stating that he was '*very conscious that final accountability and responsibility for ABELARD are mine. I neither wish nor would it be appropriate for me to step back from this in any way and it will get the oversight and attention that it requires.*'<sup>173</sup>

121. Former Commander David Johnston told the Panel that he remained uneasy that he had been asked to act as Gold Commander for the Abelard Two Investigation, in circumstances in which he could not make any decisions to ensure that it was being run effectively. He therefore

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168 With the Serious Organised Crime Agency.

169 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p35, undated.

170 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p10, 30 March 2007.

171 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p10, 30 March 2007.

172 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p10, 30 March 2007.

173 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p10, 30 March 2007.

emailed AC John Yates stating that he no longer wished to be Gold Commander of the investigation unless he could make decisions.<sup>174,175</sup> He stated that following the email, he and AC Yates ‘*had words*’, as a result of which AC Yates decided to retain control of the investigation himself.<sup>176</sup> Commander Johnston’s sole responsibility thereafter comprised budgeting issues and resources.<sup>177</sup> Former AC Yates told the Panel that following this exchange, he received input from the Homicide and Serious Crime Command through Commander Johnston’s deputy, DCS Andrew Murphy.

122. Former Commander David Johnston told the Panel that he had thought that DCS David Cook should not have been running the Abelard Two Investigation. He said that DCS Cook had already moved to the Serious Organised Crime Agency and was therefore running the investigation part-time. Former Commander Johnston felt that the investigation should be run by someone who was working full-time.<sup>178</sup> He also told the Panel that he had told AC John Yates that DCS Cook was not the right person to run the investigation, but AC Yates had responded that DCS Cook had been appointed to the Metropolitan Police from a provincial force and was therefore ‘*clean*’.<sup>179</sup>

123. DCS David Cook had in fact served with the Metropolitan Police from 1979 to 1996.<sup>180</sup> He had then served with Surrey Police for almost five years and had returned to the Metropolitan Police in July 2001. He had therefore been employed by the Metropolitan Police during the Morgan One and Hampshire/Police Complaints Authority Investigations although he had not been involved in either of those investigations.

124. Former AC John Yates told the Panel that he considered that Commander David Johnston had found it difficult to get involved because he found the reporting lines to be challenging.<sup>181</sup> Former AC Yates said that he would have expected Commander Johnston to manage some of the day-to-day oversight, but it was clear that he may not have been doing that. Former AC Yates suggested there was perhaps a lack of management of Commander Johnston by DAC Janet Williams. Former AC Yates said that this was more an internal management issue and had no bearing on the overall outcome of the Abelard Two Investigation.<sup>182</sup>

125. By August 2009, DCS Hamish Campbell had become involved in the senior management of the Abelard Two Investigation. The evidence indicates that he was involved, among other things, in the decision-making process for the debriefing of Person J5, who had emerged as a potential witness (see sections 6.8 and 9.1 below) and dealt with resource issues and the financial review of that debrief.<sup>183</sup>

126. Former AC John Yates was asked about these arrangements by the Panel and responded that this was not a typical homicide investigation and fell outside ‘the norm’ in terms of Metropolitan Police investigation and management structures.<sup>184</sup> He said that the Daniel Morgan

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174 Panel interview with former Commander David Johnston, pp2-3, 29 September 2016.

175 Panel interview with former Commander David Johnston, pp2-3, 29 September 2016. The Panel has been unable to gain access to this email from Commander Johnston to AC Yates, despite requesting it from the Metropolitan Police.

176 Panel interview with former Commander David Johnston, p3, 29 September 2016.

177 Panel interview with former Commander David Johnston, p3, 29 September 2016.

178 Panel interview with former Commander David Johnston, p2, 29 September 2016.

179 Panel interview with former Commander David Johnston, p2, 29 September 2016.

180 DCS David Cook’s assignment history, provided to the Panel.

181 Panel interview with former AC John Yates, para 20, 30 August 2016.

182 Panel interview with former AC John Yates, para 28, 30 August 2016.

183 Email conversation between DCS Hamish Campbell and T/DCI Noel Beswick regarding resources for debrief, MPS080422001, pp1-6; and Decision Log by DI Douglas Clarke, MPS080442001, pp1-3, 17 October 2009.

184 Panel interview with former AC John Yates, para 19, 30 August 2016.

*'case had a particular legacy and history issue and it had to be dealt with in that way with proper scrutiny and oversight'*. He said that there *'was clear and proper pressure from the Metropolitan Police Authority, the Commissioner and the family'* and that the Metropolitan Police *'owed it to the family to do their utmost to find the killers and bring them to justice'*.<sup>185</sup>

127. During interview, former Commander Simon Foy told the Panel that, despite AC John Yates' bravery in taking on jobs others would not and in retaining responsibility for some of the more difficult and complex investigations, he wished he had had the courage to ask AC Yates why he had continued to retain responsibility for the Abelard Two Investigation. Commander Foy said about AC Yates, *'[h]e probably needed to leave it'*.<sup>186</sup>

128. Former Commander Simon Foy said in interview with the Panel that, on 06 October 2009, he had his first conversation with former DCS David Cook about the Abelard Two Investigation.<sup>187</sup> Former Commander Foy described his involvement in the Abelard Two Investigation saying that he had met AC John Yates on 23 November 2009 to discuss the Abelard Two Investigation and to enquire what AC Yates wanted him to do. Former Commander Foy explained that AC Yates said that he needed *'to be an ally to Dave COOK, and a confidante, and to get acquainted, and if possible, build some sort of relationship with Alastair MORGAN'*. He concluded, *'[t]he executive decision-making process remained with John YATES and Dave COOK'*.<sup>188</sup> Later in his interview, former Commander Foy said that he had spoken to AC Yates about the pressure which DCS Cook had been under but that *'I trusted too much that it was being dealt with and that he would cope in the end.'*<sup>189</sup> He further said, *'Dave COOK remaining in the SIO role was in retrospect an error, but there were very strong reasons for him staying in place.'* He referred to DCS Cook's very strong knowledge of the case and his relationship with Alastair Morgan. Former Commander Foy said that he and DCS Hamish Campbell had talked about the case and that *'we should have "pulled" him [former DCS Cook] out sooner'*.<sup>190</sup>

129. Former Commander Foy said that during the period from November 2009 to January 2010 he spoke often on the telephone to former DCS David Cook while travelling home from London after work (a journey of about 1.5 hours), explaining that former DCS Cook would send him a text message asking to speak, and former Commander Foy would call him back. He said that former DCS Cook talked a lot and he would often just listen, and that they would *'just chat'*.<sup>191</sup> Former DCS Cook, however, told the Panel that he had minimal contact with Commander Foy and others at the Metropolitan Police, apart from in connection with his other role at the Serious Organised Crime Agency.<sup>192</sup>

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185 Panel interview with former AC John Yates, para 29, 30 August 2016.

186 Panel interview with former Commander Simon Foy, PNL000180001, p1, 26 November 2019.

187 Panel interview with former Commander Simon Foy, p4, 26 November 2019.

188 Panel interview with former Commander Simon Foy, PNL000180001, p4, 26 November 2019.

189 Panel interview with former Commander Simon Foy, PNL000180001, p5, 26 November 2019.

190 Panel interview with former Commander Simon Foy, PNL000180001, p2, 26 November 2019.

191 Panel interview with former Commander Simon Foy, PNL000180001, p4, 26 November 2019.

192 Panel interview with former DCS David Cook, Transcript 2, pp13-14, 25 August 2020.



130. This was not an atypical investigation – it was an unsolved murder investigation. DCS David Cook, the Senior Investigating Officer, Stuart Sampson, of the Crown Prosecution Service, Jonathan Rees, barrister, and others had previously worked on the case, some of them as part of the Metropolitan Police Homicide Command. The family of Daniel Morgan had expressed no concern about this. There was no justification for AC John Yates’ assertion that the investigation had to be taken out of the normal management processes.

131. The Panel acknowledges AC John Yates’ recognition that this was a very sensitive case for the Metropolitan Police. His desire to take personal responsibility for ensuring that it was investigated properly was laudable. However, he failed to take into account that his other onerous responsibilities would prevent him from exercising the degree of oversight that was necessary for such a complex investigation. He was wrong not to give greater weight to the expression of legitimate concerns and representations made, more than once, by several senior officers, who were better placed than he to exercise that oversight. He should have handed over charge of the investigation to the regular chain of command, and that he did not do so is regrettable.

132. DAC Janet Williams acted properly in bringing the deficiencies in governance to the attention of AC John Yates. AC Yates, despite the requests made to him, and despite discussion of the inadequacies of the oversight arrangements, allowed the situation to continue in which normal quality assurance and management controls did not operate. This should not have happened. Moreover, after July 2008, apart from the initiative of Commander Simon Foy in establishing a Silver Group, there is no evidence of formal strategic leadership of the Abelard Two Investigation. The responsibility for this rests with former AC Yates. Former AC Yates has told the Panel that it would not have been surprising if formal Oversight Group meetings ceased at this time, as charges against the Defendants were brought in April 2008 and therefore responsibility for the conduct of the prosecution transferred to the Crown Prosecution Service. However, the Panel does not accept this, as the process of investigation, including gathering further witnesses, evidence and disclosure, continued after the arrests.

133. The failures in the governance arrangements for the Abelard Two Investigation, and the lack of clarity around the role, powers and function of the Senior Investigating Officer, contravened the policing safeguards designed to ensure the integrity of all major investigations. Former AC John Yates’ suggestions that Commander David Johnston failed to provide oversight and DAC Janet Williams failed to provide adequate management of Commander Johnston are not accepted. Ultimately, as a consequence of his own decision-making, the responsibility lay with former AC Yates.

## 4 The review of previous investigations

134. On 22 March 2006, DCS David Cook recorded that the primary objective of the Abelard Two Investigation would be *'to implicate or eliminate'* Glenn Vian as the person said to have attacked and killed Daniel Morgan.<sup>193</sup> He also recorded that there was evidence that Jonathan Rees arranged the murder, that James Cook drove the getaway car, which was stored and subsequently destroyed by Person P9, and that Jonathan Rees *'was apparently assisted by [DS Sidney Fillery] in disrupting the investigation if not in the planning and execution'*.<sup>194</sup>

135. On 20 April 2006, DCS David Cook briefed the Abelard Two Investigation, stating that the investigation needed to:

- i. ascertain whether there were any aerial photos or other plans available of the car park of the Dolphin public house on or around 09 March 1987;
- ii. obtain details of the staff of the Golden Lion public house and the Dolphin public house at the time of the incident with a view to re-interviewing them; and
- iii. read all probe material relating to Operation Two Bridges and the Abelard One/Morgan Two Investigation.<sup>195</sup>

136. As the Abelard Two Investigation developed it included review or investigation of:

- i. matters relating to Daniel Morgan, including threats he had received;
- ii. pre-existing evidence, and consideration of the management of the Morgan One Investigation, including matters relating to the Golden Lion public house, the management of the crime scene and forensic enquiries;
- iii. the Belmont Car Auctions robbery;
- iv. the recovery of the Range Rover from Malta by Daniel Morgan;
- v. Southern Investigations;
- vi. Kevin Lennon's evidence;
- vii. alleged police corruption;
- viii. evidence provided by many witnesses including James Ward, Gary Eaton and Person J5 and the consequential very extensive work on admissions and allegations made by them (see sections 6.1, 6.4, 6.8 and 9.1 below);
- ix. the telephone records of former DS Sidney Fillery, Jonathan Rees and Glenn Vian;
- x. the financial situation of Jonathan Rees;
- xi. a forensic review;

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193 Decision 5, Decision Log by DCS David Cook, MPS080293001, p2, 22 March 2006.

194 Decision 5, Decision Log by DCS David Cook, MPS080293001, p3, 22 March 2006.

195 Minutes of office meetings, MPS071803001, p2, 20 April 2006.

- xii. the arrests in 2006 of Glenn Vian, Garry Vian and James Cook;<sup>196</sup>
- xiii. surveillance of Glenn Vian and James Cook;
- xiv. examination of Person B18 (see section 6.9 below) which was prioritised by the Crown Prosecution Service;<sup>197</sup>
- xv. the arrests in 2008 of Jonathan Rees, former DS Sidney Fillery, Glenn Vian, Garry Vian and James (Jimmy) Cook;
- xvi. enquiries about Daniel Morgan's Austin Healey car which had not been found after his murder;
- xvii. identification of further potential new witnesses; and
- xviii. the arrests of 28 individuals, some of them in connection with matters other than the investigation of Daniel Morgan's murder, but which had emerged during the Abelard Two Investigation.

137. Having considered the available evidence to date, on 15 June 2006, DCS David Cook wrote to James Cook's solicitor saying that he firmly believed that James Cook had '*intimate knowledge of the events leading up to the murder and of the murder itself*'.<sup>198</sup> He advised that, '*[t]he Serious Organised Crime and Police Act 2005 may provide a mechanism by which James Cook may wish to come forward and detail both the role he played, if any and assist us in bringing this matter to a conclusion both for the benefit of the family and all those concerned*'.<sup>199</sup> He asked the solicitor to advise whether James Cook wished to enter into discussion on these matters.<sup>200</sup> James Cook's solicitor responded saying, '*I have taken instructions from Mr Cook. Unfortunately, he is unable to assist the enquiry*'.<sup>201</sup> The letter confirmed that James Cook would make himself available, were he to be arrested.<sup>202</sup> James Cook was arrested and bailed on 04 August 2006 after attending a police station accompanied by his solicitor (see paragraph 185 below).<sup>203</sup>

138. On a further occasion in February 2007, DI Paul Settle, DS Gary Dalby and DC Gary Dale had a conversation with James Cook seeking to persuade him to give evidence. James Cook declined to do so.<sup>204</sup>

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196 Custody Record for Glenn Vian, MPS006978001, 04 August 2006; Custody Record for Garry Vian, MPS102503001, 05 September 2006; and, Custody Record for James Cook, MPS006979001, 04 August 2006.

197 Minutes of office meetings, MPS071803001, pp58-60, 02 October 2007.

198 Letter from DCS David Cook regarding James Cook knowledge about Daniel Morgan murder, MPS072266001, p2, 15 June 2006.

199 Letter from DCS David Cook regarding James Cook knowledge about Daniel Morgan murder, MPS072266001, p2, 15 June 2006.

200 Letter written to James Cook's solicitor from DCS David Cook regarding James Cook's knowledge about the murder of Daniel Morgan MPS072266001, p2, 15 June 2006.

201 Letter to DCS Cook from James Cook's solicitor regarding their client James Cook desire not to assist the enquiry, MPS072320001, p2, 22 June 2006.

202 Letter to DCS Cook from James Cook's solicitor regarding their client James Cook desire not to assist the enquiry, MPS072320001, p2, 22 June 2006.

203 Custody Record for James Cook, MPS006979001, pp1-7, 04 August 2006.

204 Message 542 of 08 February 2007.

139. Given the emerging evidence that James Cook had acted as the getaway driver in the murder, DCS David Cook was justified in attempting to recruit him as an Assisting Offender under the Serious Organised Crime and Police Act 2005, in the hope that he would provide evidence to assist the investigation into Daniel Morgan's death.

140. On 18 July 2006, DCS David Cook and his colleagues met Jonathan Rees, barrister, to discuss the main lines of enquiry and the strategy for the investigation.<sup>205</sup> Following this meeting, Jonathan Rees, barrister, advised that the debrief of James Ward should continue.<sup>206</sup> He advised that police should continue to seek supporting evidence and '*investigate the witness's credibility as rigorously as circumstances allow*' and that:

- i. police should continue to review the scientific evidence;<sup>207</sup>
- ii. police should continue to seek further evidence;
- iii. the Crown Prosecution Service/police should supply copies of the transcripts of the debrief and all other material concerning the witness to Counsel;<sup>208</sup>
- iv. the Crown Prosecution Service should appoint a junior barrister to act as disclosure barrister to begin the task of reviewing material for disclosure;
- v. the police/disclosure barrister should compile a master table of all material collected during the various investigations into the killing;<sup>209</sup> and
- vi. the Crown Prosecution Service should begin the process of creating evidence bundles of statements and exhibits.<sup>210</sup>

141. Finally, Jonathan Rees, barrister, advised that '*[i]f it is decided that there is sufficient [sic] to charge anybody in connection with the murder, we will need consider [sic] the impact that may have in respect of any of the other suspects*'.<sup>211</sup>

142. A further possible new witness had emerged in July 2006, and DCS David Cook recorded that a decision to debrief this witness had been made on 07 August 2006.

143. A case summary attached to an agenda for an Oversight Group meeting on 09 August 2006 stated that the investigative strategy was '*focussed purely on Glen [sic] and Gary [sic] Vian*,' the suspects against whom James Ward could give evidence.<sup>212</sup> The strategy was described as follows:

- i. To substantiate the debrief of the Assisting Offender to determine if he was a witness of truth;

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205 Crown Prosecution Service Advice Document (1), MPS102410001, pp2-3, para 4, 04 August 2006.

206 Crown Prosecution Service Advice Document (1), MPS102410001, pp3-4, paras 7-8(i), 04 August 2006.

207 Crown Prosecution Service Advice Document (1), MPS102410001, pp4-5, para 8(iii)-8(iv), 04 August 2006.

208 Crown Prosecution Service Advice Document (1), MPS102410001, p5, para 8(v), 04 August 2006.

209 Crown Prosecution Service Advice Document (1), MPS102410001, p5, paras 8(vi)-8(vii), 04 August 2006.

210 Crown Prosecution Service Advice Document (1), MPS102410001, pp5-6, para 8(viii), 04 August 2006.

211 Crown Prosecution Service Advice Document (1), MPS102410001, p9, para 14, 04 August 2006.

212 Operation Abelard Oversight Panel Meeting, MPS108270001, p7, 18 October 2005.

- ii. To pursue a new forensic strategy and a review of all submissions to date;
- iii. To conduct a covert intelligence/evidence-gathering operation against Glenn Vian;
- iv. To review all case files in existence to identify evidence or any material that would undermine a prosecution case; and
- v. To reinvestigate certain aspects of the 1987 investigation and to interview witnesses who had been identified.<sup>213</sup>

144. Although the strategy was described as being '*purely focussed on*' Glenn and Garry Vian, other lines of enquiry were discussed during the meeting on 09 August 2006. There is no evidence of any attempt to constrain the investigation in any way. There is clear evidence that Counsel was appropriately involved in the early case management.

#### 4.1 The debriefing of witnesses under the Serious Organised Crime and Police Act 2005

145. The first element of the strategy referred to above was the debriefing of James Ward under the Serious Organised Crime and Police Act 2005. This debriefing was a lengthy and complex process.

146. Chapter 2 of the Serious Organised Crime and Police Act 2005 provides a legislative framework for the treatment of offenders assisting investigations and prosecutions. Sections 71-75B inclusive state that the provision of assistance to the police may result in the offender receiving immunity from prosecution, a reduction in their sentence or a review of any sentence to which the offender is already subject.

147. Where a person is debriefed under these provisions, section 72 of the Serious Organised Crime and Police Act 2005 provides that, if the Director of Public Prosecutions '*thinks that for the purposes of the investigation or prosecution of an indictable offence or an offence triable either way it is appropriate to offer any person an undertaking that information of any description will not be used against the person in any [criminal] proceedings [...], he may give the person a written notice [...]* (a "*restricted use undertaking*")'.<sup>214</sup> Such a notice will provide that information described in the undertaking must not be used against that person except as provided by the undertaking.<sup>215</sup> Such undertakings were issued in the Abelard Two Investigation (for example, see paragraph 716 below).

148. The Crown Prosecution Service's Guidance provided that:

- i. No notice or undertaking can be issued on the basis that the Assisting Offender will only divulge information after immunity, or an undertaking has been given;

<sup>213</sup> Operation Abelard Oversight Panel Meeting, MPS108270001, p7, undated.

<sup>214</sup> Serious Organised Crime and Police Act 2005, s 72(1) and s 72(2).

<sup>215</sup> Serious Organised Crime and Police Act 2005, s 72(3).



- ii. Assisting Offenders must be debriefed. There is an initial scoping interview to determine what they can assist with and what unprosecuted criminal activity needs to be addressed. There is a full debrief following the agreement of a Serious Organised Crime and Police Act 2005 contract between the prosecution and the witness; and
- iii. The judge may take into account the extent and nature of assistance but does not have to. The judge has discretion on a case-by-case basis.<sup>216</sup>

149. The Crown Prosecution Service's Guidance also provided that the Assisting Offender must:

- a. *'fully admit their own criminality;*
- b. *provide the investigators with all information available to them regarding the matters under investigation and those involved;*
- c. *agree to maintain continuous and complete co-operation throughout the investigation and until the conclusion of any criminal or other proceedings arising from the said investigation, including giving evidence in court where appropriate.'*<sup>217</sup>

150. The debriefing process, which is conducted by a separate debriefing team, required complete separation, referred to as a 'sterile corridor' between the debriefing processes and any staff working on the relevant investigation, so that no contact could occur between witnesses being debriefed and any murder investigation team. The purpose of the sterile corridor is to ensure that, since the Senior Investigating Officer and his or her team have no role to play in relation to the witness, there can be no allegations that there had been any attempt to influence or interfere with the evidence which was given by the witnesses. No member of the debriefing team can have any previous or current role in the investigation for which the evidence is sought. An Intelligence Liaison Officer should be appointed to manage communication between the debrief team and any investigation team.<sup>218</sup> The witnesses might also require the protection of the police.

151. In addition to the debrief team, a separate team of Metropolitan Police officers was responsible for the welfare and protection of the witnesses and their immediate families. This separate team could take no part in the debriefing process.

152. The debriefing of James Ward, who was then in custody, began on 22 May 2006<sup>219</sup> and ended on 12 December 2006.<sup>220</sup>

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216 The Crown Prosecution Service's Guidance: Witness Immunities and Undertakings, pp6-8, June 2006.

217 The Crown Prosecution Service's Guidance: Witness Immunities and Undertakings, p2, June 2006.

218 Document D5525, Draft copy of Manual of Guidance for the Debriefing Offenders Assisting Investigations and Prosecutions, MPS109574001, pp43-44, para 7.3.7, 2006.

219 Record of interview, MPS089714001, 22 May 2006; Ongoing Civil Action Case between Jonathan Rees, Glenn Vian, Sidney Fillery, and Commissioner of Police of the Metropolis, CIV000001001, p25, 22 December 2015.

220 Master Tape Disclosure list N97 Debriefs, MPS103663001, pp2-8, undated.

153. DCS David Cook conducted a risk assessment of a second proposed witness, Gary Eaton, in July 2006,<sup>221</sup> and further assessments were conducted thereafter. In an email to D/Supt Barry Phillips, the officer responsible for Metropolitan Police Service Debrief Capability in response to the Serious Organised Crime and Police Act 2005,<sup>222</sup> and the debrief Senior Investigating Officer for Gary Eaton,<sup>223</sup> DCS Cook recorded that Gary Eaton,

*'demonstrates an intense dislike of Jimmy [Cook] which is indicative of a desire to seek some revenge (don't quote me) on the basis that he was actively engaged in criminal activities from which a [p]rime suspect has had substantial benefit and he has not. Also he blames his connection to a prime suspect as being the reason why his son is actively engaged in criminal activity and has recently been arrested as a result. Finally his current girlfriend was recently threatened as a means to ensure his silence and this would appear to be the final straw.'*<sup>224</sup>

154. Gary Eaton agreed to be debriefed on 08 August 2006 and his debrief concluded on 18 December 2007.<sup>225</sup> Thereafter there were a number of meetings to clarify what he had said during his debrief. DS Douglas Clarke (later promoted to Detective Inspector) was appointed to act as Liaison Officer between the debrief team and the Abelard Two Investigation.<sup>226</sup> Arrangements for accommodation, and welfare arrangements for Gary Eaton and his partner, Person G23, were agreed between them and the Witness Protection Unit.<sup>227</sup>

155. Concerns arose within the Abelard Two Investigation, shortly after the debrief processes for James Ward and Gary Eaton began, about the processes and working practices of the debrief. On 02 November 2006, at the request of DCS David Cook, the Covert Operational Security Unit produced a security review report *'on behalf of Detective Chief Superintendent David Cook'* on the debrief of James Ward,<sup>228</sup> the first Metropolitan Police debriefing process under the Serious Organised Crime and Police Act 2005.<sup>229</sup> The report was addressed to Commander Shaun Sawyer and was also sent to DCS Cook.<sup>230</sup> It examined only the processes and working practices in relation to the debriefing of James Ward.<sup>231</sup>

156. The report stated that *'[d]ue regard has been given to the ACPO [Association of Chief Police Officers] draft manual "Guidance on Debriefing Offenders Assisting Investigations & Prosecutions" which has not yet been ratified, and which unfortunately makes little reference to the need for operational security.'*<sup>232</sup>

157. The Association of Chief Police Officers' *'Guidance on Debriefing Offenders Assisting Investigations & Prosecutions'* was not finished until 2016.

221 The Directorate of Professional Standards Witness Protection Unit Threat Assessment GE, EDN001298001, 29 July 2006.

222 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p20, 11 July 2017.

223 Operation Abelard Oversight Panel Meeting, MPS108270001, p4, 09 August 2006.

224 Folder of material supplied by a Detective Sergeant Op Megan in response to DMIP questions SS513 to SS529 [Q329-345], MPS109704001, p86, 04 August 2006.

225 Jonathan Rees and others and Commissioner of Police of the Metropolis, CIV000001001, p38, undated.

226 Witness statement of DI Douglas Clarke, MPS006791001, p1, 03 August 2009.

227 *'Schedule of contact with Gary Eaton'*, MPS006763001, p1, 26 November 2007.

228 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p7, 02 November 2006.

229 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p8, 02 November 2006.

230 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p4, 02 November 2006.

231 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p7, 02 November 2006.

232 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p7, 02 November 2006.

158. It is essential that officers responsible for policing have all necessary guidance to enable them to carry out their various functions. A delay of over ten years in producing the Serious Organised Crime and Police Act 2005 Guidance on Debriefing Offenders Assisting Investigations & Prosecutions, particularly in this very important and complex area of investigation, was unacceptable.

159. The report identified a variety of issues including the following:

- i. The premises being used for the debrief were regarded as '*not fit for purpose*'.<sup>233</sup>
- ii. Agreement was made to '*commence the debrief process following a gold group meeting early in 2006. It appears that no minutes were recorded at this meeting, and in fact the decision was made by DAC John Yates following a presentation by DCS Cook.*'<sup>234</sup>
- iii. Government Protective Marking Scheme arrangements for documents were not adhered to at the Crown Prosecution Service. Insecure email was used by Stuart Sampson, of the Crown Prosecution Service, as the main method of communication.<sup>235</sup>
- iv. Witness Protection Unit officers were not kept regularly informed in relation to matters concerning the witness and his family.<sup>236</sup>
- v. Although a high-risk level had been identified for the debriefing operation, there was no documentation as to how this had been decided and no record of relevant control measures had been considered and implemented in order to manage the risk.<sup>237</sup>
- vi. The original risk assessment created by DCS David Cook had not been updated, and '*bearing in mind the subject has named numerous individuals, and [is] likely to give evidence against some of those, then, in order for the organisation to maintain its duty of care [...]*', it was recommended that this should happen.<sup>238</sup>
- vii. The debriefing operation required a heavy financial commitment because of the need to provide custody staff for one person 24 hours a day.<sup>239</sup>
- viii. Since DCS Cook only had sight of summaries rather than the full transcripts of the debrief (a policy decision which was accepted as being appropriate), it was essential that he be made aware of any information which could affect the progress of the murder investigation.<sup>240</sup>

160. The report also observed that the Deputy Senior Investigating Officer for the debrief operation had been approached by a number of retired officers offering typing services to the debriefing teams. The report recorded that the Deputy Senior Investigating Officer, '*sensibly*

233 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p8, 02 November 2006.

234 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p8, 02 November 2006.

235 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p9, 02 November 2006.

236 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p9, 02 November 2006.

237 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p10, 02 November 2006.

238 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p10, 02 November 2006.

239 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, pp10-11, 02 November 2006.

240 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p11, 02 November 2006.

*decided that the operation was far too sensitive to consider such action*'.<sup>241</sup> The report made recommendations for future consideration of the review by the Covert Operations Security Unit of companies offering typing services.<sup>242</sup>

161. The report made nine other recommendations for action, all of which related to the identified operational security issues referred to above. It concluded that *'the SIO [Senior Investigating Officer] [...] has a particularly difficult job in that he is investigating a murder committed some years ago, and at the same time has to consider the debriefing operation and the potential corruption issues*'.<sup>243</sup> Documentation attached to this report included a minute sheet from Commander Shaun Sawyer to DCS David Cook, dated 21 March 2007, which stated that the matters contained in the report had been addressed.<sup>244</sup>

162. The Crown Prosecution Service told the Panel in November 2020 that *'[t]he CPS email server is, and was, a gsi server and therefore is part of the secure government network. The government security markings, as they were at that time, allow the use of email for information marked as "restricted" or below. Communication via email would not have been a security breach of itself, unless information was marked as "confidential" or above.'*

163. There is no evidence to show that there was any contact with the Crown Prosecution Service to address the deficiencies which had been identified relating to arrangements for document security, or to ensure that only secure email was used.

164. The fact that management of the debriefing processes was not overseen by a Gold Group was raised by DAC Janet Williams in March 2007. She commented that *'Dave [Cook] has spent considerable time and energy managing the processes regarding [James Ward] and [Gary Eaton]. However, particularly with [Gary Eaton], I have concerns as to the robustness of our procedures, the sterile corridors and the potential long-term risks to the subject. This I feel [...] should sit with the Gold Group, as the SIO [Senior Investigating Officer] cannot objectively manage the conflicting issues arising*'.<sup>245</sup>

165. In April 2007, following the intervention by Commander David Johnston in November 2006 (see paragraphs 104-112 above),<sup>246</sup> the Metropolitan Police Covert Operational Security Unit produced a second review of the practices and procedures used in the formal debriefings of the two witnesses.<sup>247</sup>

166. The report correctly stated that neither the Home Office nor the Association of Chief Police Officers had approved formal guidance covering the policy, processes and procedures to be adopted when using the new procedures under the Serious Organised Crime and Police Act

241 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p10, 02 November 2006.

242 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p10, 02 November 2006.

243 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, pp11-12, 02 November 2006.

244 Orange Docket relating to Assisting Offenders Debrief, MPS107485001, p5, 02 November 2006.

245 A – Messages dated 03 October 2012 OD21/16 (Op Tuleta) SIL/79 from DS Gary Dalby, MPS109471001, p35, (undated).

246 Emails between Commander David Johnston, DAC John Yates and DCS David Cook, EDN001126001, 09-15 November 2006.

247 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, p7, 20 April 2007.

2005.<sup>248</sup> Like DAC Janet Williams, it identified the fact that the Abelard Two Investigation lacked a Gold Group specifically to manage the debriefing process. The purpose of such a Gold Group was described in the report, as follows:<sup>249</sup>

*'The role of this group chaired by a [sic] ACPO [Association of Chief Police Officers] ranking officer is essential to ensuring the integrity of any de-brief, the separation of the SIO [Senior Investigating Officer] in making decisions concerning the subject, the development of unconnected lines of inquiry arising from the de-brief and the coordination of the specialist units such as witness protection and prison intelligence. The Gold Group in addition has a vital role in the cost management, offender welfare, risk assessment review and ensuring planning for the longer-term re-location/risk management at the conclusion of court proceedings or the de-brief process.'*<sup>250</sup>

167. The report expressed concern that, in the absence of a Gold Group, DCS David Cook had assumed governance of the debriefing process for James Ward, alongside his role as Senior Investigating Officer of the enquiry.<sup>251</sup> There were consequences of his dual role, including:

- i. the undertaking of under resourced tasks;
- ii. lack of clarity of roles in the context of a lack of clear guidance as to tasking;
- iii. misunderstandings about the cost of the debriefing processes (which had been estimated in November 2006 as being approximately £65,000 a month plus Witness Protection Unit costs which were estimated to be £100,000); and
- iv. conflicts of interest as to the use and appropriateness of a witness in the debriefing process, a failure to control the witness, and a breach of the sterile corridor between the witness and the investigation team.

168. The report stated:

*'Throughout Operation Abelard 2 DCS Cook has fulfilled the majority of these roles (those that a Gold Group would expect within its remit), and in doing so took additional responsibilities for which initially he had neither the resources nor funding. This led to a series of misunderstandings within Homicide Command regarding the ongoing costs of the investigation. This truncating of responsibilities also created a lack of clear role definitions of those engaged in the process, there was no written guidance regarding who had responsibility for each aspect of the debrief [...]. This is not to say that individuals within each aspect did not carefully document their own activity. Coordination however fell to DCS Cook who in this instance was also the SIO [Senior Investigating Officer]. [...]*

*'Whilst the overall outcome of [James Ward] was a sound evidential product, the issues identified would have been substantially reduced if not completely avoided if a Gold Group with a specific remit of managing the de-brief process had been in place. It is acknowledged that an oversight group chaired by AC Yates is in existence, but this group is mandated to deal with broad strategic issues affecting Operation*

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248 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, p8, 20 April 2007.

249 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, p10, 20 April 2007.

250 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, p10, 20 April 2007.

251 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, pp10-11, 20 April 2007.



*Abelard 2, rather than the more specific and at times tactical management of a de-brief process.*<sup>252</sup>

169. The report continued:

*'The SIO [Senior Investigating Officer] is perhaps not the right person to re-evaluate the use of the [Assisting Offenders] as they are focused on their investigation and its outcome when other considerations might dictate an alternate course of action. However, this is clearly not an issue that the oversight group chaired by an Assistant Commissioner should be required to adjudicate on. This type of issue is one that sits within the remit of the Gold Group.'*<sup>253</sup>

170. The report identified similar problems with the debriefing of Gary Eaton, with the additional complications that he was not in custody at the time of the debrief, and initially failed to comply with police instructions (see section 6.4 below).<sup>254</sup> In relation to Gary Eaton, the report stated the following:

*'The absence of a Gold Group specifically to manage the process led to significant problems during the initial recruitment stage, the management of communications between the operational and de-brief teams and control of the subject and his family. It is acknowledged that DCS Cook endeavoured to put in place systems to maintain the integrity of the process within the resources available to him, but these served at best to limit the affects [sic] rather than eliminate them [sic]. Perhaps most significantly are the breaches of the sterile corridor between the operational team and the de-brief team which could be subject to adverse comment at any future legal proceedings.'*<sup>255</sup>

171. The report also raised the safety and welfare of both witnesses as a constant concern, stating the need for threat and risk assessments before arrests were carried out. It stated that a *'robust and monitored protocol'* should be *'in place and reviewed in the period leading up to any trial'*.<sup>256</sup>

172. In identifying these significant problems, the report stressed that little or no structural planning had been undertaken by the Metropolitan Police in the period leading up to the enactment of the new legislation.<sup>257</sup>

173. The report made very extensive recommendations for the future conduct of the debriefing of Assisting Offenders under the Serious Organised Crime and Police Act 2005, relating to matters of command and control, operational security, fiscal control, threat and risk assessment, training, corporate policy/ standard operating procedures, and ethical issues.<sup>258</sup>

174. The report pointed out that DCS David Cook and other Metropolitan Police units were responding to a *'developing scenario'*.<sup>259</sup> It also noted that *'DCS Cook is more than aware of the structural deficiencies in the de-brief process employed'*,<sup>260</sup> and that he had *'carefully documented his decision making process and taken together with other significant lines of*

252 Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, pp10-11, 20 April 2007.

253 Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, p11, 20 April 2007.

254 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, p11, 20 April 2007.

255 Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, p11, 20 April 2007.

256 Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, p11, 20 April 2007.

257 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, p11, 20 April 2007.

258 Copy of Covert Operations Security Unit report re debrief of Eaton N591 and Ward N11, MPS107463001, pp12-16, 20 April 2007.

259 Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, p11, 20 April 2007.

260 Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, p12, 20 April 2007.

*inquiry developed during the re-investigation he feels will enable him to re-butt [sic] or qualify any suggestion of abuse of process and contamination of [Gary Eaton's] evidence'.<sup>261</sup> This, it emerged, was an inaccurate statement.*

175. In summary, the Report stated:

*'It must be acknowledge[d] that DCS Cook and the Operation Abelard 2 team with no clear corporate guidance and finite resources have secured important evidence from these two individuals. The aspects identified as shortcoming by DCS Cook and his team in this review are in our opinion substantially, if not wholly due to these issues.'<sup>262</sup>*

176. Although the Serious Organised Crime and Police Act 2005 introduced new provisions, there had previously been processes for dealing with those who wished to assist the Crown in prosecutions, in return for some diminution of the penalty which would otherwise have applied to the offences which they admitted. The need for the introduction of processes to underpin the operation of the new legislation was, therefore, something of which the Metropolitan Police must have been aware. Clear guidance should have been put in place by the Metropolitan Police.

177. There was no separate Oversight or Gold Group for the debriefing processes, something recognised by the Covert Operations Security Unit and by DAC Janet Williams. Despite this, no Gold Group to manage the debriefing process was established. All this was the responsibility, ultimately, of AC John Yates. The identification in 2007 of the very significant problems in relation to the debriefing of these witnesses should have resulted in an immediate and effective response to prevent further difficulties. This did not happen.

## 4.2 The review of pre-existing lines of enquiry

### 4.2.1 Witnesses from the Golden Lion public house on 10 March 1987

178. The Abelard Two Investigation examined pre-existing lines of enquiry. They considered what had happened in the Golden Lion public house on the night of the murder. By 20 April 2006, the investigation had decided to identify details of the staff at the Dolphin public house (which was across the road from the Golden Lion public house and in which Daniel Morgan and Jonathan Rees had been drinking the night before the murder of Daniel Morgan), and at the Golden Lion public house at the time of the murder, with a view to re-interviewing them.<sup>263</sup> Some of the interviews with staff were generally subsequently declared to be unnecessary.<sup>264,265,266</sup> However, there was a review of the evidence provided by the barmaid in the Golden Lion public

<sup>261</sup> Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, p12, 20 April 2007.

<sup>262</sup> Copy of Covert Operations Security Unit Report re debrief of Eaton N591 and Ward N11, MPS107463001, p16, 20 April 2007.

<sup>263</sup> Minutes of Office Meetings, MPS071803001, p2, 20 April 2006

<sup>264</sup> Action A59 to interview and take statement if required from [...], MPS062819001, 16 April 2007.

<sup>265</sup> Action A60 to interview and take statement if required from [...], MPS062820001, 16 April 2007.

<sup>266</sup> Action A58 to interview and take statement if required from [...], MPS062818001, 16 April 2007.

house, as well as that of Person T4, both of whom confirmed their previous evidence.<sup>267,268</sup> In addition to this, the owner of the car<sup>269</sup> parked near Daniel Morgan's body (see Chapter 1, The Morgan One Investigation) was asked whether he could explain the damage to his car which could be seen in a photograph taken on the night of the murder, which was shown to the owner.<sup>270</sup> The owner was unable to do so.<sup>271</sup>

179. A Detective Constable was tasked to review the statements made by D/Supt Douglas Campbell and DI Allan Jones, statements made by significant witnesses, and the statements and subsequent interview transcripts of suspects/persons of interest, as well as the full transcript of the Inquest.<sup>272</sup> The Detective Constable reported on 20 June 2006 describing the chronology of events and identifying the following issues:

- i. Neither Daniel Morgan nor Jonathan Rees regularly used the Golden Lion public house, and few would have known they would be there;
- ii. Both had been there, however, the previous evening;
- iii. Their appearance there on that occasion might be suspicious but could be explained – according to Jonathan Rees, Daniel Morgan chose the venue to meet Paul Goodridge who had denied all knowledge of this meeting;
- iv. Numerous associates of Daniel Morgan were surprised that he parked '*his (coveted) BMW*' in a dark car park;
- v. Jonathan Rees stated that Daniel Morgan had been writing on a piece of paper, but no pen or pencil had been found in Daniel Morgan's possession;<sup>273</sup> and no personal diary or notebook, which he normally carried, had been found in Daniel Morgan's possession or his business premises;
- vi. On the day of his death, 10 March 1987, Daniel Morgan had worn a newly dry-cleaned suit. The right trouser pocket had been severely torn, and '*suggestions to explain this have been proffered*'. The Detective Constable suggested forensic examination of the pocket area inside and out for DNA;
- vii. There were inconsistencies in phone calls made by Jonathan Rees.<sup>274</sup> (These had already been identified – see, in particular, Chapter 3, The Hampshire/Police Complaints Authority Investigation.)

180. The Detective Constable also identified several individuals who might be worth revisiting for information.<sup>275</sup>

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267 Witness statement of the barmaid, MPS075515001, pp1-2, 21 March 2007.

268 Action A520 to trace Person T4 at his business address, MPS064284001, 02 November 2006.

269 The owner of the Morris Marina Estate.

270 Witness statement of the owner of Morris Marina Estate, MPS077662001, pp1-3, 24 September 2009.

271 Witness statement of the owner of the Morris Marina Estate, MPS077662001, pp1-3, 24 September 2009.

272 Chronology of events 1987, MPS102362001, p2, 20 June 2006.

273 A Parker pen which may have belonged to Daniel Morgan was found, in amongst other items, in a single twisted swan neck sealed plastic bag in 2016. The items came into the possession of the police on 18 March 1987. The items had been placed in Daniel Morgan's car in March 1987 until its removal to West Hendon Pound for storage in August 1987. The plastic bag was placed in the Property Store in August 1987. The single twisted swan neck sealed plastic bag was brought to the attention of DS Gary Dalby in 2014. He arranged for it to be delivered to him. It was sent to DS Gary Dalby from Deep Storage on 22 April 2016. MPS109531001, pp1-14, various dates

274 Chronology of events 1987, MPS102362001, pp2-4, 20 June 2006.

275 Chronology of events 1987, MPS102362001, p3, 20 June 2006.

181. All previous statements were reviewed to clarify the movements of customers in the Golden Lion public house and to identify issues requiring further investigation.<sup>276</sup>

182. A significant number of enquiries were made following this review and during the ensuing investigation. Nothing new, of assistance to the investigation, emerged from the enquiries into the Golden Lion public house.

#### **4.2.2 The review of forensic evidence and the consequential forensic work**

183. An independent company, LGC Forensics, was engaged to carry out the forensic review. A Forensic Scientist with LGC Forensics provided a full forensic strategy to the Abelard Two Investigation on 20 July 2006.<sup>277</sup> The Forensic Scientist made the following recommendations:

- i. The Forensic Scientist would meet the Forensic Manager to agree an appropriate examination strategy for the axe, would seek appropriate advice from a fingerprint expert, and would consider swabbing the join (of the axe head and handle) and underneath six small stickers, which were on the handle of the axe, for DNA. The Forensic Scientist advised that because of multiple previous treatments and handling by previous investigations, the plasters on the axe<sup>278</sup> were unsuitable for DNA sampling.<sup>279</sup>
- ii. That a sample of a small bloodstain on the exposed lining to the right of the back right pocket of Daniel Morgan's trousers<sup>280</sup> should be sent for DNA profiling.<sup>281</sup> The Forensic Scientist also noted that cellular material from the damaged area of the trousers had not yet been submitted for DNA testing.
- iii. That the Forensic Scientist would organise a location and obtain a mannequin for the purposes of the reconstruction of the murder, in order to identify areas possibly touched by offender(s), and the subsequent submission of cellular material from the areas identified.<sup>282</sup>
- iv. When DNA samples from Daniel Morgan's jacket, trousers, shirt and tie had been taken, his clothing would be examined for the presence of saliva from the offender(s).<sup>283</sup>
- v. Further research would be carried out at LGC Forensics to evaluate fully the significance of any findings should any DNA belonging to someone other than Daniel Morgan be identified on his suit.<sup>284</sup> (Daniel Morgan's suit had been worn for the first time after dry cleaning, on the day of his murder.)
- vi. That further examination of hair fragments and comparison with Daniel Morgan's hair sample should not take place at that point.<sup>285</sup>

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276 Schedule of staff and customers at Golden Lion public house, MPS102822001, pp1-9, undated.

277 Proposed forensic examination strategy, MPS005314001, pp1-2, 20 July 2006.

278 Plasters (PT/1), Proposed forensic examination strategy, MPS005314001, p1, 20 July 2006.

279 Proposed forensic examination strategy, MPS005314001, p1, 20 July 2006.

280 Trousers (CB/2), Proposed forensic examination strategy, MPS005314001, p1, 20 July 2006.

281 Proposed forensic examination strategy, MPS005314001, p1, 20 July 2006.

282 Proposed forensic examination strategy, MPS005314001, p2, 20 July 2006.

283 Proposed forensic examination strategy, MPS005314001, p2, 20 July 2006.

284 Proposed forensic examination strategy, MPS005314001, p2, 20 July 2006.

285 Proposed forensic examination strategy, MPS005314001, pp1-2, 20 July 2006.

184. The Abelard Two Investigation team agreed to this strategy and advised that they were looking particularly for the DNA of Garry Vian, Glenn Vian and James Cook, and therefore that any relevant traces which could be considered of value against their profile must be pursued.<sup>286</sup>

185. James Cook and Glenn Vian were arrested and interviewed on 04 August 2006.<sup>287,288</sup> Garry Vian was arrested from prison on 05 September 2006.<sup>289</sup> During very brief interviews, all three suspects were asked if they had ever touched the axe used to murder Daniel Morgan. All three responded '*No comment*' to the questions they were asked, and Garry Vian said that he knew nothing about the murder and had no questions to answer.<sup>290,291,292</sup> Their fingerprints and DNA samples were taken<sup>293,294,295</sup> for the purposes of the forensic investigation which was conducted.

186. The Abelard Two Investigation team also advised that the cellular material recovered from the damaged area of the trousers should be submitted for DNA analysis; that there should be a meeting to determine the sequence of forensic examinations of the axe; and the reconstruction of the murder should go ahead.<sup>296</sup>

187. On 06 September 2006, a reconstruction of the murder of Daniel Morgan took place at the Peel Centre, Hendon.<sup>297</sup> Dr Michael Heath, who had conducted the post mortem examination of Daniel Morgan's body, had stated that '*[t]here was a tear down the upper third outer seam of the right leg, which also involved the right pocket [...]*'.<sup>298</sup> In a subsequent statement, he had said that the '*tearing of the seam around the right pocket could have been caused whilst the deceased was attempting to defend himself and remove his hand rapidly from his right pocket*'.<sup>299</sup>

188. The purpose of the reconstruction was to attempt to establish:

- i. the direction of the attack;
- ii. the cause of damage to the trousers;
- iii. any potential forensic opportunities from the victim's clothes or the axe; and
- iv. any further information which could assist the investigation.<sup>300</sup>

189. It had proved impossible to secure a suit identical to that worn by Daniel Morgan. Two similarly styled, second-hand, pure new wool suits were purchased for the reconstruction.<sup>301</sup> The two suits were not the same size as Daniel Morgan's suit, and the Forensic Scientist with LGC Forensics subsequently stated that this had been taken into account in reaching their findings.

286 Agreed forensic examination strategy, MPS006007001, p1, undated.

287 Custody Record for James Cook, MPS006979001, pp1-7, 04 August 2006.

288 Custody Record for Glenn Vian, MPS006978001, pp1-7, 04 August 2006.

289 Custody Record for Garry Vian, MPS102503001, pp1-6, 05 September 2006.

290 Record of Interview with Glenn Vian, MPS000683001, 04 August 2006.

291 Record of Interview with James Cook, MPS000691001, 04 August 2006.

292 Record of Interview with Garry Vian, MPS074954001, 05 September 2006.

293 Custody Record for James Cook, MPS006979001, p3, 04 August 2006.

294 Custody Record for Glenn Vian, MPS006978001, p4, 04 August 2006.

295 Custody Record for Garry Vian, MPS102503001, p4, 05 September 2006.

296 Agreed forensic examination strategy, MPS006007001, p1, undated.

297 Message re reconstruction 06 September 2006, MPS005331001, p1, 12 September 2006.

298 Witness statement of Michael Heath, MPS010643001, p2, 02 April 1987.

299 Witness statement of Michael Heath, MPS021632001, pp1-2, 16 May 1989.

300 Message re reconstruction 06 September 2006, MPS005331001, p1, 12 September 2006.

301 Message M148 [...] regarding obtaining a suit of the same manufacture/style/size etc as worn by Mr Morgan for use in a reconstruction process to assist in identifying areas for DNA examination and also the manner of assault, MPS072968001, pp1-2, 19 August 2006.



The reconstruction was videoed. Four experiments were conducted using the two pairs of trousers. One pair of trousers was used for experiments 1 and 2 and was of a different design from the other pair, which were used for experiments 3 and 4.<sup>302</sup>

190. The victim was played by a man who was 5'6" tall, and weighed 9 stone 10lbs, using the two pairs of trousers of a similar style and fabric to those worn by Daniel Morgan on 10 March 1987.<sup>303</sup>

191. Four experiments were conducted as follows:

- i. The victim was lying facing upwards on the ground. The attacker was to the left of the victim. The attacker pulled the right pocket with his right hand.
- ii. The victim was lying facing upwards on the ground. The attacker was astride the victim and the attacker ripped the left pocket with his right hand.
- iii. The victim was lying facing upwards on the ground. The attacker was to the right of the victim. The attacker's left hand grabbed the back of the right pocket, and his right hand grabbed the front of the right pocket, pulling in opposite directions.
- iv. The victim was standing and resisting, while the attacker pulled the left pocket.

192. Different scenarios were enacted to test three hypotheses and thereby to identify possible areas for forensic analysis. The hypotheses related to the causes of the damage to the trousers. They were as follows:

- i. *'The victim's body could have been fitting whilst someone was trying to get something out of the pocket.'*<sup>304</sup>
- ii. *The trousers could have been ripped to make the attack look like a robbery (assailant may have been unaware that there was money in the other trouser pocket).*
- iii. *The pocket may have been ripped whilst trying to get something out of the pocket in a panic – [it was] stated that when a person is under stress/adrenalin rush they are unable to carry out delicate movements and therefore tend to be heavy handed.'*<sup>305</sup>

193. The possibility of a transfer of saliva from the attacker to Daniel Morgan's clothing was considered. The Forensic Scientist explained that Daniel Morgan's suit jacket could be screened for saliva, but that this could not be done until all attempts to retrieve DNA from touching the jacket had been completed.<sup>306</sup> A pathologist who was consulted said that the mouth can dry up in times of increased stress, reducing the likelihood of finding the attacker's saliva on the suit.<sup>307</sup>

194. The Forensic Scientist described the damage to Daniel Morgan's trousers in a statement of 16 May 2007, noting that: *'[t]here was no evidence of cuts to the garment. There were no dirty marks or scuff marks that may indicate that Daniel MORGAN was dragged, knelt down or was involved in a struggle whilst on the ground'*;<sup>308</sup> and that there was,

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302 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, pp3-5, 06 September 2006.

303 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p3, 06 September 2006.

304 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p2, 06 September 2006.

305 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p2, 06 September 2006.

306 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p5, 06 September 2006.

307 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p5, 06 September 2006.

308 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p12, 16 May 2007.

*'a large tear to the right outside leg which extended from the waistband to approximately halfway down the leg. The front right belt holder had partially come away from the waistband, along with some of the trouser fabric below the front right region of the waistband. Some loose threads were still present within the stitch holes along the right side seam and waistband. The white fabric pocket lining was partially torn along the side seam. A small tear was also present in the fabric to the right of the back right pocket.'*<sup>309</sup>

195. The Forensic Scientist recorded the following observations:

1. *'If the "victim" was stood [sic] upright and a forceful tug or pull was applied to his left or right side trouser pocket, then the "victim" would be pulled in the direction of the tug/pull and little or no damage would be produced in the trousers, unless a force in the opposite direction to the tug/pull was applied. The opposite force could be as a result of the "victim" being restrained from behind or the "victim" pulling himself in the opposite direction to the tug/pull. If, however, the "victim" was lying on the ground, the weight of the "victim" would most likely be sufficient force to enable the "assailant" to tug/pull in the opposite direction and produce a tear in the trousers.*
2. *When the "victim" was stood upright, the lower front of his jacket would largely obscure the openings to his left and right side pockets, making it more difficult for the "assailant" to grab the pocket in order to tear it open.*
3. *More than one forceful tug/pull was required to tear the trousers to the extent that Daniel MORGAN's trousers were torn.'*<sup>310</sup>

196. Reflecting on the reconstruction exercises, the Forensic Scientist concluded that the findings suggested that the damage to Daniel Morgan's trousers was unlikely to be accidental and more likely to be the result of a deliberate attempt to tear open the pocket.<sup>311</sup>

197. Since the two pairs of trousers used for the experiment were each used on two occasions, by the second experiment there was a possibility that they had been weakened as a consequence of the first experiment and were therefore easier to tear. If the experiments were to have some validity, then a separate pair of trousers should have been used for each experiment.

Two valid explanations were proffered by the Forensic Scientist: that the victim was lying on the ground and that the trouser pocket could have been pulled or tugged; and that there was a deliberate attempt to tear open the pocket.

If there had been an attempt to move Daniel Morgan's body, that would possibly, on the Forensic Scientist's evidence, have resulted in the tear which existed after he was murdered. That would not have been the result of a deliberate attempt to tear open the pocket, but rather the consequence of an attempt to move the body. The evidence of the Forensic Scientist is unclear in this respect.

309 Witness statement of the Forensic Scientist with LCG Forensics, MPS078620001, p12, 16 May 2007.

310 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p22, 16 May 2007.

311 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p22, 16 May 2007.

198. The minutes of the reconstruction exercise recorded the following:

- i. The absence of defence wounds indicated that Daniel Morgan was attacked from behind, but that this could not be said with any certainty.<sup>312</sup>
- ii. The group of three wounds to the top back of the head, and the two wounds to the right cheek or side of the face, were of similar orientation and were most likely to have been caused in close succession.<sup>313</sup>
- iii. It was not possible to determine the precise order of the blows, but the last injury inflicted with the axe was that to the cheek.<sup>314</sup>
- iv. Both the Pathologist and a Biomechanics Expert agreed that it was not unusual for a person having been struck from behind to be lying face upwards. The Pathologist noted that head injuries could cause a person to fit, and therefore Daniel Morgan's body may have moved into this position at some point after the final blow was delivered.<sup>315</sup>
- v. The Pathologist could not determine whether the attacker was left- or right-handed, nor was it possible to determine the possible height range of the assailant.<sup>316</sup>

199. The Pathologist acknowledged that while the victim could have remained conscious following the attack, it was '*unlikely (but is still possible)*'. He also stated that it would not be necessary to hold on to someone to inflict these injuries, although the attacker may have held on to Daniel Morgan during the attack. In July 2009, an expert in bloodstain pattern interpretation at LGC Forensics provided a statement which specified the following:

*'In my opinion the appearance and distribution of blood staining on or around Daniel Morgan's body indicate that at some point after receiving his injuries, including the blow which left the axe embedded in his face, Mr Morgan has had his face turned to the left, and has expired blood. One way in which blood could have been expired is through Mr Morgan continuing to breathe, but I cannot rule out other causes such as compression to his chest.'*

*'In my opinion the appearance and distribution of the blood staining neither supports nor refutes the assertion that he was lying on his left side after receiving his injuries. If he had lain on his left side, then in my opinion this could only have been for a brief time before there was a significant accumulation of blood on the ground'.<sup>317</sup>*

200. The following areas of Daniel Morgan's clothing were identified, during the reconstruction referred to above, for touch DNA sampling:

- i. the upper outside surface, and inside bottom half, of Daniel Morgan's jacket;
- ii. the upper, outside surface of Daniel Morgan's trousers, the thigh region; and

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312 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p2, 06 September 2006.

313 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p2, 06 September 2006.

314 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p2, 06 September 2006.

315 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, p1, 06 September 2006.

316 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, pp1-2, 06 September 2006.

317 Statement of bloodstain expert, MPS000487001, p5, 22 July 2009.

iii. the lower, outside surface of Daniel Morgan's shirt covering the abdomen.<sup>318</sup>

201. The statement of the LGC Forensic Scientist showed that a number of experiments were conducted using the exhibits available, including the axe used to kill Daniel Morgan, DNA samples, clothing, photographs and letters, and various other extraneous materials such as hairs, fibres, frozen extracts and 'tapings'.<sup>319</sup> This was in an attempt to secure scientific findings which might have assisted in determining the circumstances surrounding the murder of Daniel Morgan.<sup>320</sup>

202. The only DNA (STR) profile<sup>321</sup> identified during this process was that of Daniel Morgan. Minor DNA components secured did not match any of the 31 individuals profiled in the case.<sup>322</sup>

203. The Forensic Scientist stated that the tapings<sup>323</sup> from the plasters<sup>324</sup> consisted of four pieces of transparent plastic sheet and two small dishes containing some other fibres and debris which appeared to be heavily stained with blood.<sup>325</sup> The plastic sheets were labelled Tape 1 to 4 and subsequently examined. A single minor DNA component was recovered from Tape 3 from the axe. It was recorded as occurring in approximately 50 per cent of the population and was therefore of negligible significance.<sup>326</sup>

204. Over 299 hairs were recovered. The Forensic Scientist, in a statement of May 2007, stated that more than 50 hairs had previously been recovered from Daniel Morgan's head<sup>327</sup> and approximately 50 from his face.<sup>328,329</sup> The Forensic Scientist further stated that 57 were recovered from his trousers,<sup>330</sup> 90 from his shirt,<sup>331</sup> 49 from his jacket,<sup>332</sup> and three from the axe tapings.<sup>333</sup> All were examined and most were suitable for mitochondrial DNA profiling.<sup>334,335</sup> The three hairs from the axe tapings included one light brown hair, approximately one centimetre in length, found under the adhesive tape on Tape 4: this hair was suitable for mitochondrial DNA

318 Minutes from Operation Tulip Reconstruction meeting at Police Training Centre, Hendon, MPS079527001, pp4-5, 06 September 2006.

319 The process of taping involves recovering hairs and fibres by taping the item with pieces of adhesive tape, which can subsequently be fixed to pieces of transparent film or acetate: Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p10, 16 May 2007.

320 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p7, 16 May 2007.

321 STR (Short Tandem Repeat) profiling is a sensitive DNA analysis technique. A DNA (or STR) profile obtained from a human body fluid such as blood or saliva can be compared with the STR profile of a given person. If the profiles are different then the body fluid could not have originated from the person in question. If, on the other hand, the STR profiles are the same then that individual, and anyone else who shares the same profile, can be considered as a possible source of the body fluid. The significance of finding such a match can then be assessed. (See Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp8-9 and 27, 16 May 2007.)

322 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp11-25, 16 May 2007.

323 Tapings exhibited as AND/102

324 Plasters exhibited as PT/1

325 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p19, 16 May 2007.

326 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp-20-21, 16 May 2007.

327 Sample of head hair exhibited as MJH/2

328 Sample of facial hair exhibited as MJH/3

329 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp22-23, 16 May 2007.

330 Trousers exhibited as CB/2

331 Shirt exhibited as CB/7

332 Jacket exhibited as CB/6

333 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp23-24, 16 May 2007.

334 While 'STR Profiling' and 'Enhanced STR Profiling' are techniques which examine DNA which is present in the nucleus of cells, called 'Nuclear DNA', Mitochondrial DNA profiling examines DNA in small bodies in the cells, called mitochondria, which are responsible for producing energy in the cell. Mitochondrial DNA techniques are not as discriminating as nuclear DNA techniques such as STR profiling. This is because although mitochondrial DNA is present in both men and women, it is passed down the maternal line only. Consequently, siblings who share the same mother will have identical mitochondrial DNA, and as a result there can be many people in the population who share the same mitochondrial DNA. Mitochondrial DNA profiling has an important advantage over nuclear DNA profiling, in that mitochondria are resistant to degradation, and therefore it can be very useful in analysing old or degraded samples. It is also very useful in analysing hairs, which contain little or no nuclear DNA (see Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp9-10, 16 May 2007).

335 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp22-24, 16 May 2007.

analysis and a profile was obtained.<sup>336</sup> In May 2008, a Forensic Scientist with Cellmark Forensic Services stated that this profile did not match those of Daniel Morgan, Garry Vian, Glenn Vian, James Cook or Gary Eaton.<sup>337</sup>

205. The two packets of crisps found near Daniel Morgan's body were examined. Partial DNA was obtained but it did not match the DNA of any known individuals.<sup>338</sup>

206. A letter and envelope were examined but no meaningful DNA was extracted.<sup>339</sup> This was an anonymous handwritten letter which was received in a stamped envelope in July 2002. The letter was from an anonymous author who wrote about being threatened with an axe by the owner of a shop on Sydenham Road.<sup>340</sup>

207. An examination of the banknotes indicated the possible presence of DNA from more than one individual, and in the opinion of the LGC Forensic Scientist, the DNA of Daniel Morgan could have contributed to the result.<sup>341</sup> Daniel Morgan's shoes were sent for further forensic examination to determine whether a DNA profile could be obtained using a new test. No new DNA profile was obtained.<sup>342</sup>

208. Extensive efforts were made to recover evidence from the forensic exhibits associated with the murder of Daniel Morgan. However, although some information was retrieved, it did not add significantly to the existing available information and it did not, in itself, provide conclusive additional evidence of the way in which, or by whom, Daniel Morgan was murdered.

209. Further enquiries were made by the Metropolitan Police in 2009 in an attempt to derive evidence using mitochondrial DNA, following developments in forensic science. The Forensic Scientist with Cellmark Forensics Services stated that they had been requested to prepare mitochondrial DNA sequences from mouth swabs taken from two individuals,<sup>343</sup> and compare them with a hair sample recovered from the axe<sup>344</sup> to establish if the hair could originate from either of these people.<sup>345</sup> The forensic scientist concluded that '*[t]he mitochondrial DNA sequencing results indicate that the hair (AND/102 area 2) could have originated from Paul GOODRIDGE, Kim VIAN or any individual related to them by the maternal line*'.<sup>346</sup> However, the findings of this exercise were subsequently dismissed in January 2014 when it was concluded that the mitochondrial sequence from the hair sample was similar to that of Daniel Morgan who '*cannot be excluded from being the source*'.<sup>347</sup>

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336 Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p24, 16 May 2007.

337 Witness statement of a forensic scientist with Cellmark Forensics Services, MPS079029001, pp3-4, 27 May 2008.

338 DNA status report, MPS005380001, p4, 05 September 2008.

339 DNA status report, MPS005380001, p5, 05 September 2008; Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, p24, 16 May 2007.

340 Copy of letter, MPS061292001, July 2002.

341 DNA status report, MPS005380001, p5, 05 September 2008; Witness statement of the Forensic Scientist with LGC Forensics, MPS078620001, pp24-25, 16 May 2007.

342 Witness statement MPS003719001, 21 December 2009.

343 Paul Goodridge and Kim Vian.

344 (exhibit AND/102 Hair from axe – area 2)

345 Witness statement of the forensic scientist with Cellmark Forensics Services, MPS079030001, p2, 23 July 2009.

346 Witness statement of the forensic scientist with Cellmark Forensics Services, MPS079030001, pp2-3, 23 July 2009.

347 LGC forensic report on mitochondrial DNA analysis of tapings from plasters (AND/102), MPS108131001, pp1-2, 29 January 2014.



210. The Panel noted that further enquires were made by the Metropolitan Police into whether there were any additional forensic possibilities, with regard to the murder weapon, Daniel Morgan's clothing and associated material, arising from any recent advances in DNA technologies. The LGC Forensic Scientist considered but rejected any further DNA analysis on the basis of limited or degraded samples.<sup>348</sup>

211. The Panel sought an analysis of the forensic science work done throughout the investigation of Daniel Morgan's murder from Dr Kathryn Mashiter, an independent expert in forensic science. In the context of the Abelard Two Investigation, she stated the following:

- i. The review was '*extensive and extremely thorough*'.<sup>349</sup>
- ii. The review had involved scientists from a number of different disciplines. Unfortunately, exhibits had been lost over the years and the continuity and integrity of the exhibits had been compromised.
- iii. The experiment to ascertain how the damage to the trousers was caused utilised two pairs of different trousers. Four identical pairs of trousers should have been used for the four scenarios. This would have made the reconstruction more meaningful.
- iv. There is a report that the hem of Glenn Vian's trousers<sup>350</sup> had been repaired with red thread. There is no mention of a comparison with the red viscose fibres from the axe. A request was made to the Forensic Scientist of LGC Forensics to check the fibres and review forensic possibilities. There is no report eliminating the red thread identified on Glenn Vian's trousers.<sup>351</sup>

212. Dr Kathryn Mashiter concluded that the attempts by the Abelard Two Investigation to seek further evidence '*was marred by the inadequacy of previous investigations extending right back to the crime scene. Even if significant forensic evidence had been found it probably would not have stood up to scrutiny in relation to integrity, continuity, contamination etc*'.<sup>352</sup>

#### 4.2.3 The review of surveillance material previously gathered

213. The material gathered during previous surveillance by Operation Two Bridges in 1999, and between June and December of 2002 by the Abelard One Investigation, was examined by the Abelard Two Investigation. Audio probes had been placed in the homes of Glenn Vian and Person P9, and in James Cook's car in 2002. All three had also been targets of periodic conventional surveillance.<sup>353</sup> In June 2002, Jonathan Rees was in prison, so no such proactive evidential opportunities existed in relation to him.<sup>354,355</sup> The products of this surveillance are discussed in Chapter 6, The Abelard One/Morgan Two Investigation.

214. The material was examined by the Abelard Two Investigation using enhanced audio equipment to see whether anything further could be gained from the tapes. Nothing of evidential value was secured as a consequence of this exercise.

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348 Email from the Forensic Scientist with LGC Forensics, MPS109496001, p66, 06 October 2015.

349 Report of Dr Kathryn Mashiter, Forensic Review of Daniel Morgan investigation 2019, PNL000181001, p9, May 2019.

350 Trousers (KD27), Report of Dr Kathryn Mashiter, Forensic Review of Daniel Morgan investigation 2019, PNL000181001, p10, May 2019.

351 Report of Dr Kathryn Mashiter, Forensic Review of Daniel Morgan investigation 2019, PNL000181001, pp9-10, May 2019.

352 Report of Dr Kathryn Mashiter, Forensic Review of Daniel Morgan investigation 2019, PNL000181001, p16, 10 May 2019.

353 Operation Abelard Briefing Note, MPS049823001, pp1-7, 09 July 2002.

354 Closing Report for Operation Two Bridges by a Detective Sergeant, MPS099294001, p46, 20 July 2001.

355 Abelard II, Report to the Crown Prosecution Service, MPS103338001, p115, 13 June 2007.

## 5 The new investigation: covert surveillance

215. As stated previously, the strategy for the Abelard Two Investigation included conducting surveillance at Glenn Vian's house. This occurred between May and August 2006. On 19 April 2006, a document was drafted setting out provisions for compliance with requirements of covert and intrusive surveillance.<sup>356</sup> The necessary authorities were obtained to place, monitor, maintain and remove a covert listening device. In order to enable the surveillance, the house next door to Glenn Vian's house was purchased by the Metropolitan Police.

### 5.1 Information from covert surveillance at Glenn Vian's house

216. On 23 May 2006, A/DCI Noel Beswick recorded a decision establishing a Monitoring Policy Document providing a full protocol for the management of covert audio material. Authority was granted to conduct surveillance on Glenn Vian and his wife, Kim Vian, and other relevant subjects.<sup>357</sup>

217. The first conversations were recorded on 07 June 2006, however DCS David Cook noted that, as the recording process continued, it became clear that Glenn Vian was suspicious of activity around the house next door and accordingly he was continually guarded in what he said.<sup>358</sup>

218. On 15 June 2006, as stated above, a letter was sent to James Cook through his solicitor asking him to provide information under the Serious Organised Crime and Police Act 2005.<sup>359</sup> On 22 June 2006, James Cook's solicitor replied saying that if police wanted to speak to James Cook as an arrestee he would attend the police station by appointment.<sup>360</sup> This was relevant as it might have provoked some discussion between the Vians.

219. On 15 June 2006, DCS David Cook visited Sharon Vian (Jonathan Rees's former wife and sister of Glenn Vian and Garry Vian) at her home, with a view to prompting conversation at Glenn Vian's home, and also to see whether Sharon Vian might be more willing, or able, to speak to police.<sup>361</sup> The visit prompted discussions including a telephone call between Sharon Vian and Kim Vian on 18 June 2006, however no incriminating conversation was recorded.<sup>362</sup> Significantly, during the telephone call on 18 June 2006, Kim Vian said that she believed that people who visited the adjacent empty property were, '*coppers from Hendon*' and she speculated whether their house was bugged.<sup>363</sup> It is possible that the reference to '*coppers from Hendon*' derived from the fact that the Abelard One/ Morgan Two Investigation had been based at Hendon.

220. On 23 June 2006, Kim Vian was recorded as telling someone on the telephone that '*Trish has rung. Wardy [James Ward] has turned Supergrass, if he thinks he knows everything, tell them.*'<sup>364</sup>

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356 Operation Abelard II, Covert Monitoring Post Protocols, MPS107623001, p4, 19 April 2006.

357 Operation Abelard II, Covert Monitoring Post Protocols, MPS107623001, pp42-43, 19 April 2006.

358 Abelard II, Report to the Crown Prosecution Service, MPS103338001, p192, 13 June 2007.

359 Letter written to James Cook's solicitor from DCS David Cook regarding James Cook knowledge about Daniel Morgan murder, MPS072266001, p2, 15 June 2006.

360 Letter to DCS Cook from James Cook's solicitor regarding their client James Cook desire not to assist the enquiry, MPS072320001, p2, 22 June 2006.

361 Abelard II, Report to the Crown Prosecution Service, MPS103338001, p193, 13 June 2007.

362 Abelard II, Report to the Crown Prosecution Service, MPS103338001, pp193-194, 13 June 2007.

363 Abelard II, Report to the Crown Prosecution Service, MPS103338001, pp193-194, 13 June 2007.

364 Audio Summary (23 June 2006, 1.03pm – 24 June 2006, 5.33am) by a Detective Constable, MPS000825001, p2, 23 June 2006.

### 5.1.1 Cops in 'kill' plot – 12 July 2006

221. On 12 July 2006, an article was published in *The Sun* newspaper, at the request of the Metropolitan Police, regarding the creation of a 'SECRET police "ghost squad"' to conduct an investigation into the murder of Daniel Morgan.<sup>365</sup> The intention was to prompt conversation which could then be recorded. A conversation was recorded on 17 July 2006, between PC Dean Vian, Garry Vian's stepson and a serving police officer, and Glenn Vian. PC Dean Vian told Glenn Vian about the newspaper article in *The Sun* newspaper, and they discussed letters which had been sent to various parties by the Abelard Two Investigation seeking information.<sup>366</sup> Sharon Robinson, formerly Vian until her divorce from Garry Vian, had received such a letter and Glenn Vian said she had passed it on.

222. On 31 July 2006, Glenn Vian began to cut back ivy covering a fence at the back of his property, and in doing so he discovered a microphone which had been planted by the Abelard Two Investigation team.<sup>367</sup> There is nothing within the papers available to the Panel to suggest that Glenn Vian's discovery of this microphone was anything other than fortuitous on his part. There is certainly no evidence that he was 'tipped-off' that he would find something if he were to cut the ivy back. Indeed, discussions captured on the probes after he found the microphone suggested genuine surprise and anger that the police had been listening to them, and they even speculated that the microphone may have been in place since 2004,<sup>368</sup> when Garry Vian and James Ward had been arrested for conspiracy to supply drugs.<sup>369</sup> DCS David Cook recorded that the discovery of the microphone prompted substantial conversation, with Glenn Vian and Kim Vian speculating again that the people visiting the adjacent property were police officers.<sup>370</sup> It was also discussed between Glenn Vian and his nephew Sean Vian.<sup>371</sup> Sean Vian, a serving soldier, confirmed that what Glenn Vian had found was a 'bug' and offered to take it to someone for verification.<sup>372</sup>

223. On 01 August 2006, Glenn Vian was recorded talking about a letter he had received from DCS David Cook inviting him to attend a police station for interview about Daniel Morgan's murder. He speculated that the police wanted to obtain a sample of his DNA, and that the likely outcome of him attending the police station would be that he would be arrested and charged with the murder. He denied that he had had any involvement in the murder and talked about only having met James Ward (whom they thought had turned into a 'Supergrass') 'on ten to twelve occasions'.<sup>373</sup>

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365 Cops in 'kill' plot', *The Sun* newspaper, MPS108253001, p1, 12 July 2006.

366 Audio Summary of covert recording of conversations between Kim, Dean and Glenn; Venue A (5.50 pm-9.52 pm), MPS009981001, pp2-6, 17 July 2006.

367 Abelard II, Report to the Crown Prosecution Service, MPS103338001, pp200-201, 13 June 2007.

368 Abelard II, Report to the Crown Prosecution Service, MPS103338001, pp200-201, 13 June 2007.

369 Case summary R v Ward & Vian', MPS092231001, p6, undated; Custody record of Garry Vian, MPS079771001, 24 August 2004; and, Custody record of James Ward, MPS091118001, 24 August 2004.

370 Abelard II, Report to the Crown Prosecution Service, MPS103338001, pp200-201, 13 June 2007.

371 Witness statement of a Police Constable, MPS000480001, p2, 27 May 2009.

372 Monitoring Transcript Product A 04.31pm – 06.31pm – Exhibit No EOA/A/020806/TR/0001, MPS102397001, p5, 31 July 2006.

373 Abelard II, Report to the Crown Prosecution Service, MPS103338001, pp202-210, 13 June 2007.

224. In relation to police wanting to obtain his DNA, Glenn Vian was also recorded saying: *'It's only immaterial. Right. For it to be material ....(?).... I would have had to Fucked up, big time. Trust me. Unless someone puts my DNA there which I don't think they are too clever for ..... (?) ..... I don't know it's as simple as that.'*<sup>374</sup> DCS David Cook interpreted these words as follows:

*'Glenn VIAN is clearly discussing the murder of Daniel MORGAN and the subject of DNA. It is highly significant that he states, "For it." (he is talking about his DNA) "to be material ..... (?) ..... I would have had to had fucked up big time." If as the evidence suggests, Glenn VIAN is the killer then he would know the precautions taken, the tape around the axe, whether gloves were worn etc.'*<sup>375</sup>

DCS David Cook concluded that Glenn Vian's comments were *'tantamount to admitting involvement whilst remaining confident he [Glenn Vian] has not left any traces behind'*.<sup>376</sup>

225. On 02 August 2006, Glenn Vian was heard speaking about Jonathan Rees: *'He bats for both sides of the fence JONATHAN REES.... he mixed with bent old bill.'*<sup>377</sup> He spoke also about his fear of *'taking the blame for ...because they can't get who they want for it JONATHAN REES or whatever'*.<sup>378</sup> The following day, Kim Vian and Glenn Vian spoke again about the issue, talking about who Glenn Vian could put in the frame in order *'to get out of it'*. Kim Vian said, *'and SID FILLERY is all fucking bent old bill that's done this.'*<sup>379</sup>

226. On 03 August 2006, there was further conversation between Kim Vian and Glenn Vian, during which Glenn Vian said, among other things, *'[w]hat they do, immunity, immunity to everybody except for the fucking ... man that had it sorted, [former DS Sidney Fillery]'*.<sup>380</sup> There was no admission of liability during the various conversations, rather there was ongoing concern about arrests and what might happen during and after any arrest.

227. Nothing to assist the investigation of the murder of Daniel Morgan emerged during the recording at Glenn Vian's house. The comments and interpretations made by DCS David Cook in the report which he submitted to the Crown Prosecution Service in June 2007, summarising the material derived from the 2002 and 2006 surveillance, appear balanced, and properly identified when such material potentially hindered or helped the Crown's case against the Defendants.

374 Audio summary, MPS108805001, p6, 01 August 2006.

375 Abelard II, Report to the Crown Prosecution Service, MPS103338001, p208, 13 June 2007.

376 Abelard II, Report to the Crown Prosecution Service, MPS103338001, p208, 13 June 2007.

377 Monitoring Transcript Product, MPS009934001, p3, 02 August 2006.

378 Monitoring Transcript Product, MPS009934001, p3, 02 August 2006.

379 Arrest and interview package re. Glenn Vian, MPS103918001, p225, 03 August 2006.

380 Monitoring Transcript Product A – 03 August 2006 3.45 pm – 04 August 2006 7.15 am – Exhibit No AMB/A/100806/TR/0001, MPS102425001, p5, 03 August 2006.

## 6 Witnesses

228. The Abelard Two Investigation reviewed the evidence previously provided by witnesses and interviewed a very significant number of them. Several new witnesses were also identified, some of whom provided evidence about police corruption as well as the murder of Daniel Morgan. Although in some cases their evidence was not used, the most important of the witnesses interviewed by police during the Abelard Two Investigation were:

- i. James Ward
- ii. Person F11
- iii. Kevin Lennon
- iv. Gary Eaton
- v. Person S15
- vi. Former Police Officer N21
- vii. Person X8
- viii. Person D6
- ix. Person J5
- x. Person B18
- xi. Former PC Dean Vian.

### 6.1 James Ward

229. James Ward had a long history of involvement with organised crime. He had previously provided information to the police, which resulted in substantial reductions in sentence and quashing of fines imposed on him.<sup>381</sup> He had also made serious allegations about police corruption to officers of the Metropolitan Police in 1996. An authorised<sup>382</sup> recorded meeting with James Ward had taken place on 30 January 1996 at which James Ward had spoken about giving £50,000 to a police officer.<sup>383</sup>

230. In October 1999, police had received information from William Newton, who had become Southern Investigations' bookkeeper after Kevin Lennon had been imprisoned. William Newton had alleged that James Ward had said that Jonathan Rees had paid for the murder and that 'Jimmy Green' (whom the police later construed to be James Cook) was the driver of the 'get away' car.<sup>384</sup>

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381 On 02 December 1986, after his arrest and charge for possession of 503kgs of cannabis, he had provided information to the police which led to the recovery of other Class A drugs. The judge hearing his case had been informed of his cooperation with the police. His sentence of seven years' imprisonment and a fine of £100,000 had been reduced by the judge to two years, and the fine had been quashed.

382 Application for the use of technical equipment, MPS107327001, approved 24 January 1996.

383 TRANSCRIPT OF ROOTE N11 TAPE – EXHIBIT JEM/111110/01, MPS107224001, pp15-22, 30 January 1996.

384 Intelligence report, MPS061037001, pp1-2, 06 October 1999.



231. On 04 November 1999, James Ward<sup>385</sup> and his wife Jacqueline<sup>386</sup> had been arrested, and their house had been searched in relation to the laundering of large amounts of cash believed to be the proceeds of drugs trafficking. Jonathan Rees, former DS Sidney Fillery, former DC Thomas Kingston, William Newton, and a bank manager for Southern Investigations<sup>387</sup> were also arrested on suspicion of money laundering. The arrests occurred because Jacqueline Ward had visited Law & Commercial and handed over cash in the sum of approximately £500,000. Jonathan Rees, former DS Sidney Fillery and others had paid this money into their business account and from there into Jacqueline Ward's account in an accountancy firm which acted for Law & Commercial.<sup>388</sup> Jacqueline Ward was bailed repeatedly, and the investigation continued until 2005. Inquiries were made in South Africa, Swaziland, Spain, Gibraltar and Germany and through Interpol.<sup>389</sup>

232. Following his arrest on 04 November 1999 because of the information supplied by William Newton, James Ward had been asked four questions:

- i. Who ordered the killing of Daniel Morgan?
- ii. Who killed Daniel Morgan?
- iii. Who paid for the killing of Daniel Morgan?
- iv. Where did the money come from?<sup>390</sup>

233. James Ward did not respond to these questions, although he told police that he did not know James Cook, Jonathan Rees, former DS Sidney Fillery or former DC Duncan Hanrahan.<sup>391</sup> He said that he did know Sharon Vian and Garry Vian. Sharon Vian had been his former landlady and Garry Vian had done some driving for James Ward and his wife.<sup>392</sup>

234. James Ward later stated he had not answered the questions he was asked on 04 November 1999 because the reward to be gained at the time did not warrant the risk attached to providing information about the murder. He also said he was not interested in the further monetary reward offered in 2002.<sup>393</sup>

235. On 10 July 2002, William Newton had made a statement to police in which he said that James Ward had told him that Paul Goodridge, James Cook and one other (whom he did not name) had been involved in the murder. On 01 October 2002, police had met James Ward at his solicitor's office.<sup>394</sup> James Ward denied having said that which was attributed to him by William Newton but admitted that a conversation had taken place between him and William Newton.<sup>395</sup>

236. James Ward did not contact the police again in relation to Daniel Morgan's murder, until, having been arrested in August 2004 with Garry Vian in connection with serious crime, including money laundering (Operation Bedingham), and remanded in custody, he contacted police through his solicitor in December 2004, saying he wished to discuss the murder. This request

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385 Custody Record of James Ward, MPS083472001, p1, 04 November 1999.

386 Custody record of Jacqueline Ward, MPS005690001, p2, 04 November 1999.

387 Custody Record, MPS083468001, p1, 11 October 1999.

388 Witness statement of Noel Beswick, MPS109748001, p6, para 23, 20 October 2016.

389 Witness statement of Noel Beswick, MPS109748001, p11, para 45, 20 October 2016.

390 Debrief, MPS090004001, pp33-34. undated.

391 Information report re James Ward, MPS103234001, p3, 05 November 1999.

392 Information report re James Ward, MPS103234001, p3, 05 November 1999.

393 Witness statement of James Ward, MPS090079001, p22, 09 November 2006.

394 Record of meeting with James Ward, MPS001100001, 02 October 2002.

395 Record of meeting with James Ward, MPS001100001, 02 October 2002.

was considered by the Metropolitan Police in January 2005, with Stuart Sampson of the Crown Prosecution Service, and James Ward was taken for interview by DCS David Cook and DCI Neil Hibberd on 02 February 2005.<sup>396</sup> Contemporaneous notes were made of this interview.<sup>397</sup> These notes were then forwarded to Stuart Sampson.

237. James Ward told DCS David Cook of his fear that something would happen to his wife saying that, when he had been released on 04 November 1999, he had gone straight to Garry Vian's house and that Glenn Vian was there. He said:

*'I put it on them that Bill Newton the wife's accountant had told the people that my wife gave this info. I took her (Wife) to South Kensington to a hotel and went back to the people. Would I have killed them? Yes because of the danger to my wife. Gary [sic] knows I know this because he told me. I don't know what he knows.'*<sup>398</sup>

238. James Ward expressed his concerns about being a witness from the beginning of the interview, saying *'I have concerns about leaks. I have tried to pass on information before – nothing happened.'*<sup>399</sup> He also said that he had concerns that giving evidence might result in *'someone's death, my wife, son, grandchildren'*<sup>400</sup> and that it would not be worth it. He was advised by DCS David Cook of what would be required of him were he to give evidence and told that protection would be given to him. He was told that *'[t]here are no guarantees or promises, but you won't be lied to'*.<sup>401</sup> DCS Cook also raised the issue of a Restraining Order under the Proceeds of Crime Act 2002 which had been made in respect of James Ward's assets, saying *'[t]he financial on you, if we find it we'll clear you out'*.<sup>402</sup>

239. James Ward talked about a range of other issues which did not relate to Daniel Morgan and stated that what he knew about the murder of Daniel Morgan was hearsay. James Ward asked where he should start, and DCS David Cook said to James Ward: *'Tell me what you know. I'll give you a head start. It was Glenn with the axe, Gary [sic] was there and Jimmy with the car. Over the car auction.'*<sup>403</sup>

240. DCS David Cook provided specific information about the murder of Daniel Morgan to James Ward. This could have been construed as 'leading' James Ward and could thus have contaminated his evidence, which was the argument advanced by Defence solicitors during the subsequent High Court case. However, Mr Justice Mitting rejected this argument, stating that it was *'fanciful'* to suggest that *'a manipulative criminal'* such as James Ward would, when interviewed as a potential witness, recall the details of a prompt from 15 months earlier.

396 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p7, 08 May 2006.

397 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p7 onwards, 08 May 2006.

398 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, pp10-11, 08 May 2006.

399 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p7, 08 May 2006.

400 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p8, 08 May 2006.

401 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p8, 08 May 2006.

402 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p9, 08 May 2006.

403 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p10, 08 May 2006.

241. James Ward responded: *'One part was confirmed by Glen [sic]. Some of this is correct and some incorrect.'*<sup>404</sup> He went on to say:

*'The motive is wrong as far as you describe it... To break the case I can tell you, it's distasteful you might not want to do it.*

*'The people involved at the time were Glen [sic] with the axe and Jimmy driving the car. It was purposely done. Jonathon [sic] Rees wanted it done. Who paid? Rees....*

*'Why did he get it done? It's to do with a bird that worked there in the office at the time....'*<sup>405</sup>

242. James Ward also said twice that Garry Vian was not present during the murder, and that *'[h]is role was to keep everyone in line'*.<sup>406</sup> He said that it was referred to by Glenn Vian as the *'Golden Wonder murder'* (a reference to the crisps held by Daniel Morgan when he was murdered), and also, by some, as the *'HP murder'*,<sup>407</sup> because it was paid for over a period of time. Regarding the Golden Lion public house, it was recorded that he said the following:

*'That pub was under Sid Fillery [sic] and another guy, [Police Officer I26] he is ex police and served with Sid. Did 24 years and then got slung out.'*<sup>408</sup>

He added: *'It was chosen as it was the place they paid off their own police officers [...] Sid Fillery was there, just to well, not sure if he knew about it but he was used to hamper the enquiry.'*<sup>409</sup>

243. James Ward also said during this interview that, in relation to another crime, Sharon Robinson, Garry Vian's former wife, had said that *'if they charge him with this – I'll tell them everything about the murder. You want to solve it, arrest her. She will tell you everything.'*<sup>410</sup> Later he said, *'Sharon said she'd do anything to put Dean's dad [Dean Vian was Garry Vian's stepson] inside with his gangster friends.'*<sup>411</sup> He went on to say, *'she hates him (Gary[sic]) more and more every week'*.<sup>412</sup> Referring to Person X8 (see section 6.7 below), James Ward said Person X8 *'used to go out with Gary's [sic] mum. Gary said "don't talk to him [Person X8] cos he's ill and in for 15." I never have. Gary thinks if he's offered parole or £50k or anything, [Person X8] would roll over.'*<sup>413</sup>

244. Sharon Vian was interviewed on 24 March 2005, but DCS David Cook recorded that no useful information was obtained.<sup>414</sup>

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404 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p10, 08 May 2006.

405 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p11, 08 May 2006.

406 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p11, 08 May 2006.

407 HP was hire purchase – a method of buying an item and paying for it in instalments. The buyer acquired ownership when all the instalments were paid.

408 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p11, 08 May 2006.

409 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p11, 08 May 2006.

410 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p12, 08 May 2006.

411 Intelligence Reports, MPS107897001, p13, 08 May 2006.

412 Intelligence Reports, MPS107897001, p12, 08 May 2006.

413 Intelligence Reports, MPS107897001, p12, 08 May 2006.

414 Intelligence Report by DCS David Cook, MPS107897001, p16, 08 May 2005.

245. Jacqueline Ward was arrested on suspicion of money laundering on 11 May 2005.<sup>415</sup> She was bailed repeatedly until January 2006.<sup>416</sup> By November 2005 a file had been submitted to Stuart Sampson of the Crown Prosecution Service seeking advice as to whether Jacqueline Ward should be charged. Two other people were also arrested on suspicion of money laundering.
246. On 05 June 2005, DCS David Cook recorded that he had supplied information to the judge for consideration in connection with the sentencing of James Ward. On 27 July 2005, James Ward was sentenced to 17 years' imprisonment.<sup>417</sup>
247. James Ward did not provide further information to assist the prosecution in 2005. However, he continued to discuss with police whether he was prepared to give evidence in relation to the murder of Daniel Morgan.<sup>418</sup> He contacted DCS David Cook on 08 August 2005 and discussed the sentence which he had just received for conspiracy to supply Class A and C drugs.<sup>419</sup> During this conversation, DCS Cook recorded that James Ward had said that a known criminal family was being protected by a '*DCI Philips*'. DCS Cook submitted information about this to the Directorate of Professional Standards (see paragraph 368 below).
248. Former T/DCI Noel Beswick stated in October 2016 that on 28 October 2005 Jacqueline Ward had called DCS David Cook to pass on information on behalf of her husband, about the murder of a woman in Croydon on 25 September 2005.<sup>420</sup> This information had been passed on to the relevant murder investigation team.<sup>421</sup>
249. On 22 December 2005, James Ward recorded a voicemail on DCS David Cook's mobile telephone, saying that his wife was ill, she was on bail, and was under stress, and he wanted to talk to DCS Cook about what could be done to alleviate her position, and the fact that he would like to be a witness in the Daniel Morgan case.<sup>422</sup> DCS Cook recorded that he had informed Stuart Sampson of this contact, and that he (Stuart Sampson) had recommended that no charge should be brought against Jacqueline Ward without consideration of her illness.
250. Former DCS David Cook told the Panel in interview that he had had absolutely nothing to do with the money laundering investigation of James Ward and Jacqueline Ward. Former DCS Cook also stated that when he reported back to Stuart Sampson that James Ward '*wanted us to solve the problem with his wife, to make that go away*',<sup>423</sup> that '*Stuart Sampson had already made the decision that there'd be no further action against Ward's wife*'.<sup>424</sup> He continued, '*[w]hich I then let Jimmy Ward know about, without telling him that the decision had already been made*', telling him, '*so you're wasting your time and effort asking. Because it let him think I was doing him a favour. But did I ever ask Stuart to drop anything about Jackie Stanton [also referred to by her married name, Jacqueline Ward]? Absolutely not, that decision had already been made before I approached Stuart about, not about it, had a discussion about it.*'<sup>425</sup>

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415 Custody Record completion sheet in respect of Jacqueline Ward, MPS072138001, p2, 11 May 2005.

416 Custody Record completion sheet in respect of Jacqueline Ward, MPS072138001, pp5-30, (various dates).

417 Certificate of Conviction reference James Ward, MPS107891001, p2, 12 December 2006.

418 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p18, pp24-26 and p34, 08 August 2005 – 12 January 2006.

419 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p18, 08 August 2005.

420 Witness statement of former T/DCI Noel Beswick, MPS109748001, p13, para 53, 20 October 2016.

421 Details of contact, MPS001104001, 28 October 2005.

422 Record of Contact, Operation Abelard II, MPS107897001, Intelligence Report, p24, 22 December 2005.

423 Panel interview with former DCS David Cook, Transcript 3, p18, 25 August 2020.

424 Panel interview with former DCS David Cook, Transcript 3, p18, 25 August 2020.

425 Panel interview with former DCS David Cook, Transcript 3, p18, 25 August 2020.

251. DCS David Cook recorded that James Ward had contacted him again on 05 January 2006, and that he (DCS Cook) had been in contact with the Crown Prosecution Service about Jacqueline Ward's condition. He had asked James Ward whether he wished to meet for a discussion. James Ward had agreed to this. DAC John Yates was informed of the potential development. On 12 January 2006, DCS Cook and a Detective Sergeant met James Ward to discuss the possibility of his providing evidence under the terms of the Serious Organised Crime and Police Act 2005. The situation in relation to Jacqueline Ward was also discussed.<sup>426</sup> DCS Cook subsequently prepared an undated Statement of Benefit for James Ward's appeal which recorded that, '[o]n the 12th January 2006 I again interview[ed] James Ward during which time he agreed to provide evidence against those people he knew to be responsible for the murder of Daniel Morgan and identify other criminality he has been engaged in'.<sup>427</sup>

252. On 17 January 2006, Jacqueline Ward's solicitors contacted the Metropolitan Police saying that she was unable to answer her bail on 19 January 2006 because she was ill. On 18 January 2006, the custody record of Jacqueline Ward was marked: '*THIS MATTER HAS BEEN NFA'D*<sup>[428]</sup> *ON THE DIRECTION OF CPS* [...]'.<sup>429</sup>

253. The decision not to prosecute Jacqueline Ward and those with whom she had been arrested was the subject of a note by Stuart Sampson on 09 September 2010.<sup>430</sup> He stated that there was:

*'insufficient evidence that she participated in laundering the proceeds of crime for her to be charged. [...] the source of all of the investments affecting her can be traced back to the legitimate sale of her [property]. There was no evidence that she received sums back that were in any way out of proportion to her legitimate investments. There was no other evidence of her involvement in money laundering.'*<sup>431</sup>

254. On 24 January 2006, police began steps to confiscate assets from James Ward under the Proceeds of Crime Act 2002 in respect of assets acquired as a consequence of the drugs offences to which he had pleaded guilty (see paragraph 271 below).<sup>432</sup>

255. In February 2006, the money laundering investigation of James Ward and others allegedly involved in this criminal activity was discontinued and the case was closed that month. Nobody was prosecuted.<sup>433</sup>

256. On 23 February 2006, James Ward's sentence of 17 years for drug offences was reduced to 15 years after an appeal.<sup>434</sup>

257. On 03 March 2006, James Ward again contacted DCS David Cook to discuss his situation and was told he should consult his solicitor.<sup>435</sup>

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426 Record of Contact, Operation Abelard II, Intelligence Report, MPS107897001, p27, 12 January 2006.

427 Statement of benefit in respect of James Ward, MPS001114001, p1, undated.

428 No further action.

429 Custody record of Jacqueline Ward, MPS072138001, p29, 18 January 2006.

430 Prosecution note re J Stanton (Mrs Ward) and others, MPS006695001, 09 September 2010.

431 Prosecution note re J Stanton (Mrs Ward) and others, MPS006695001, p2, 09 September 2010.

432 Statement of Information Relevant in Accordance with Section 16(3) of the Proceeds of Crime Act 2002 Regina v James Frederick Ward, MPS001162001, pp1-43, 24 January 2006.

433 Witness statement of former T/DCI Noel Beswick, MPS109748001, 20 October 2016.

434 Certificate of Conviction, James Ward, MPS107891001, p2, 12 December 2006.

435 Intelligence Reports, MPS107897001, pp29-30, 03 March 2006.



258. On 05 April 2006, James Ward began negotiating the terms upon which he would be debriefed under the Serious Organised Crime and Police Act 2005.<sup>436</sup>

259. On 22 May 2006, James Ward was interviewed in the presence of his solicitor and the debrief process under the Act was explained to him. James Ward was told that the Crown Prosecution Service would need to know about all his criminality before deciding whether they could use him as a witness. James Ward was taken out of prison, where he was serving his sentence for an unrelated matter, in order for his debrief to be conducted. The Prison Service rules were still applied during his debrief.<sup>437</sup>

260. James Ward was debriefed between 22 May 2006<sup>438</sup> and 12 December 2006.<sup>439,440</sup> The debrief was conducted by a team led by DCI Jamie Armstrong from the Directorate of Professional Standards<sup>441</sup> and three others.<sup>442</sup>

261. James Ward told police that he had previously provided information in confidence to the police.<sup>443</sup> He did not reveal all his previous interactions, as an informant, with police.

262. Former T/DCI Noel Beswick stated, in 2016, that two years after the debrief of James Ward had started, on 08 April 2008, he sought to establish whether James Ward was registered on a national database. Former T/DCI Beswick told the Panel in November 2020 that at the time of the Abelard Two Investigation, it was not common practice or Metropolitan Police policy to conduct searches of the national database in respect of prosecution witnesses. Informants were routinely allocated pseudonyms to protect their identity. In this case information was received about one pseudonym which had been allocated to James Ward. On 19 May 2008, T/DCI Beswick asked that James Ward's historic informant files be made available to Counsel. He was advised that no files were held.<sup>444</sup>

263. Given James Ward's history, it would have been advisable to enquire whether he had previously provided information as an informant under a pseudonym before he was taken on as an Assisting Offender in 2006. In fact, the response received by T/DCI Noel Beswick was incorrect. There was information about two further pseudonyms under which James Ward had previously provided information (see paragraph 798 iv below).

264. During his debrief, James Ward:

- i. informed officers that he had no knowledge of the murder of Daniel Morgan other than that which he had received from other people;<sup>445</sup>

436 Precip derived from various weekly reports relating to Ward [...], Vian [...] and Eaton [...] (created for the info of prosecution counsel), MPS105643001, p3, 05 April 2006.

437 Record of interview, MPS089714001, pp1-15, 22 May 2006.

438 Record of interview, MPS089714001, 22 May 2006.

439 Witness statement of James Ward, MPS090204001, p1, 12 December 2006.

440 Master Tape Disclosure list [...] Debriefs, MPS103663001, pp2-8, 22 May 2006.

441 Operation Abelard Oversight Panel Meeting, MPS108270001, p4, 09 August 2006.

442 Witness statement of former T/DCI Noel Beswick, MPS109748001, p14, 20 October 2016.

443 Witness statement of [...], MPS090080001, 09 November 2006.

444 Witness statement of former T/DCI Noel Beswick, MPS109748001, pp18-19, para 70 -72, 20 October 2016.

445 Debrief, MPS089715001, p6, 23 May 2006.

- ii. said that he had known Garry Vian since 1982 and had been involved in crime with him for years.<sup>446</sup> He described him as being a friend and business associate since 1991.<sup>447</sup> He said that he had never known Garry Vian to tell a lie. During his trial in 2005 he had described himself as being a father figure to Garry Vian and said that Garry Vian would come to him for advice;<sup>448</sup>
- iii. described the first occasion on which he had spoken to Garry Vian about Daniel Morgan's murder, which he believed was in 1990/1991, when he and another man were being followed by what he believed were police cars. He had wanted to find out if police were following them and if so why. He met Garry Vian because he knew Garry Vian's brother-in-law was Jonathan Rees, a private investigator, *'who had numerous full time or part time police officers working in or around him.'*<sup>449</sup> Garry Vian had explained to him that Jonathan Rees could help because he owed Garry Vian a favour in relation to Daniel Morgan's murder;<sup>450</sup>
- iv. provided information about a number of incidents and about police corruption more generally;<sup>451</sup>
- v. explained that he (James Ward) had been in prison at the time of the murder;<sup>452</sup> and
- vi. said that the murder of Daniel Morgan was, in part, motivated by police corruption, which took the form of *'moonlighting policemen who were using police resources to interfere with a private investigation, passing on different information from police computers and just general sort of police knowledge and tracing people, sabotaging trials'*.<sup>453</sup>

265. During the debrief of James Ward, at a meeting on 18 July 2006, DCS David Cook and his colleagues outlined the current main lines of enquiry and strategy to Jonathan Rees, barrister, acting for the Crown Prosecution Service. Jonathan Rees, barrister, provided a written advice, on 04 August 2006, in which he commented on the potential value of James Ward as an Assisting Offender and on the fact that he could give confession evidence implicating two suspects, saying:

*'no-one should be under any illusion about the problems often encountered when seeking to rely on this category of evidence, especially where there is little or no independent supporting evidence. In my experience, the problems often revolve around the antecedent history of the witness and the motives that lead the witness to approach the police.'*<sup>454</sup>

[...]

*'Whatever pressures there may be to prosecute someone for the killing of Daniel MORGAN, it is vital that investigating officers play devil's advocate, and seek to investigate the witness's credibility as rigorously as circumstances allow. It would be*

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446 Witness statement of James Ward, MPS090079001, p2, 09 November 2006.

447 Witness statement of James Ward, MPS090078001, p7, 09 November 2006.

448 Witness statement of James Ward, MPS090079001, pp13-15, 09 November 2006.

449 Debrief, MPS089715001, p21, 25 May 2006.

450 Witness statement of James Ward, MPS090079001, pp7-8, 09 November 2006.

451 Debrief, MPS089715001, pp15-17, 23 May 2006.

452 Witness statement of James Ward, MPS090079001, p5, 09 November 2006.

453 Debrief, MPS089715001, p15, 23 May 2006.

454 Advice 1 Document, Crown Prosecution Service Advice, MPS102410001, p3, 04 August 2006.

*disastrous were we to launch a prosecution based predominantly on the witness's evidence for it to flounder because of a failure to identify any fundamental flaws.*<sup>455</sup>

266. Counsel concluded that while there may be concerns about James Ward, and while careful examination would be necessary before a decision could be made about his credibility and reliability as a witness, the debriefing process should continue. Counsel gave specific and detailed instructions about the process to be followed at that stage.<sup>456</sup>

267. James Ward ultimately made three statements on 09 November 2006 and a further statement on 12 December 2006.<sup>457</sup> His first statement dealt with his own extensive criminality over a period of 20 years. He admitted 32 offences including dealing in, and the importation of, cannabis, and conspiracy to supply cocaine. He described his relationship with Garry Vian.<sup>458</sup> His second statement of 09 November 2006 dealt with his knowledge of the murder of Daniel Morgan. He explained that he had been in prison when Daniel Morgan was murdered.<sup>459</sup> His third statement explained he had informed police that some drugs had been hidden in West Norwood Cemetery by a third party and that those drugs had been recovered by police.<sup>460</sup>

268. The evidence which James Ward provided about the murder of Daniel Morgan, in the second of his three statements dated 09 November 2006, included some of the information which he had provided to police previously. His evidence in this statement was as follows:

- i. Garry Vian had told him that his brother, Glenn Vian, had committed a murder for Jonathan Rees. James Ward said that Garry Vian had said: ‘*“He owes me a favour as my brother has done a murder for him” or something like that. He may have even said my brother has done Daniel MORGAN for him.*’<sup>461</sup>
- ii. James Ward had asked Garry Vian whether he had murdered Daniel Morgan and that Garry Vian had said that his brother, Glenn Vian, had done it.<sup>462</sup>
- iii. Garry Vian had said that Jonathan Rees ‘*ordered and paid for the murder*’, that DS Sidney Fillery investigated the murder ‘*very loosely*’ and that James Cook drove the car with Glenn Vian in it.<sup>463</sup> He had said that ‘*Rees was close by*’.<sup>464</sup>
- iv. Three people were involved in the murder – Jonathan Rees who ordered it, Glenn Vian who had killed Daniel Morgan with the axe and James Cook who had driven Glenn Vian away after the murder. Garry Vian said he had no part in the murder but was ‘*close by driving a second vehicle*’.<sup>465</sup> James Ward had previously said on tape on three occasions that Garry Vian had said that he was not there when the murder was committed. However, there was some consistency between the two statements.

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455 Advice 1 Document, Crown Prosecution Service Advice, MPS102410001, p4, 04 August 2006.

456 Advice 1 Document, Crown Prosecution Service Advice, MPS102410001, pp3-4, 04 August 2006.

457 Witness statement of James Ward, MPS090204001, 12 December 2006.

458 Witness statement of James Ward, MPS090078001, 09 November 2006

459 Witness statement of James Ward, MPS090079001, 09 November 2006.

460 Witness statement of James Ward, MPS090080001, 09 November 2006.

461 Witness statement of James Ward, MPS090079001, p7, 09 November 2006.

462 Witness statement of James Ward, MPS090079001, p15, 09 November 2006.

463 Witness statement of James Ward, MPS090079001, pp19-20, 09 November 2006.

464 Intelligence Reports, MPS107897001, p11, 08 May 2006.

465 Witness statement of James Ward, MPS090079001, p15, 09 November 2006.

- v. Garry Vian had told James Ward that Paul Goodridge, who had previously been arrested for the murder of Daniel Morgan, '*had nothing to do with the MORGAN murder*',<sup>466</sup> and, on another occasion, that '*the police would never get to the bottom of it because they were investigating the wrong motive*'.<sup>467</sup> James Ward stated that Garry Vian had told him that police were '*coming at it from two different angles. One was the robbery at Belmont Car Auctions and the aftermath of that and secondly the police corruption around Law and Commercial [formerly Southern Investigations] and Jonathan REECE [sic].*' James Ward stated that Garry Vian had said that '*it was over a bird [...] Jonathan REECE [sic] and Daniel MORGAN were both after the same woman [...] a woman who worked in the offices of Law and Commercial*'.<sup>468</sup> James Ward told police he had asked Garry Vian if '*she*' (the woman whom he had said worked at Law & Commercial) was still there in 1993/4 and Garry Vian had said yes.<sup>469</sup>
- vi. Garry Vian had said that he did not kill Daniel Morgan, and that he had told James Ward that he believed people would stand trial for the murder but be acquitted. Afterwards, he had said, police would stand outside court and say they weren't looking for anyone else.<sup>470</sup>
- vii. Garry Vian had called the murder of Daniel Morgan the '*Golden Wonder murder*', referring to the two packets of crisps which Daniel Morgan had bought before leaving the Golden Lion public house, and the '*HP murder*'. James Ward had also previously said that Glenn Vian had referred to the murder as the '*Golden Wonder murder*'. James Ward said that he had been told by Garry Vian that Daniel Morgan's murder had cost £20,000 or £25,000, and that the money was paid in instalments.<sup>471</sup>
- viii. The Golden Lion public house '*was under Sid Fi8llery [sic] and another guy, [Police Officer I26] he is ex police and served with Sid. Did 24 years and then got slung out*'; and was '*the place they paid off their own police officers*'.<sup>472</sup>
- ix. He had been told that '*the axe that had killed MORGAN had elastoplast wrapped around the handle*' in an intelligence interview, and that he did not know at the time why this was.<sup>473</sup> He said that he spoke to Garry Vian about it later. Garry Vian had said that it was '*to prevent fingerprints and forensics*', and that it was always the intention to murder Daniel Morgan.<sup>474</sup>
- x. In about 1998 or 1999, Garry Vian had been arrested for kidnap and false imprisonment, and later released.<sup>475</sup>
- xi. Police had telephoned James Ward's solicitor asking him to ask James Ward whether the driver of the car was James Cook or James Green and if the car used in the murder had been a '*green Variant VW*'. James Ward stated he had phoned his solicitor and said that he did not know the answer to either question.<sup>476</sup>

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466 Witness statement of James Ward, MPS090079001, p13, 09 November 2006.

467 Witness statement of James Ward, MPS090079001, p14, 09 November 2006.

468 Witness statement of James Ward, MPS090079001, p14, 09 November 2006.

469 Witness statement of James Ward, MPS090079001, p14, 09 November 2006.

470 Witness statement of James Ward, MPS090079001, pp15-16, 09 November 2006.

471 Witness statement of James Ward, MPS090079001, p19, 09 November 2006.

472 Intelligence Reports, MPS107897001, p11, 08 May 2006.

473 Witness statement of James Ward, MPS090079001, p21, 09 November 2006.

474 Witness statement of James Ward, MPS090079001, p24, 09 November 2006.

475 Witness statement of James Ward, MPS090079001, p20, 09 November 2006.

476 Witness statement of James Ward, MPS090079001, p26, 09 November 2006.

- xii. He had asked William Newton where the money for the murder came from and said that William Newton thought it came from a loan which he had arranged on a property in Cornwall owned by Jonathan Rees and his wife.<sup>477</sup> James Ward also said that Glenn Vian had subsequently heard from William Newton that James Ward's wife was talking to police about who killed Daniel Morgan. James Ward had told him this information was wrong '*but Glen [sic] was a bit concerned*'.<sup>478</sup>
- xiii. He had denied knowing Glenn Vian during his intelligence interview with police officers in 1999. However, James Ward said that this was untrue. He had known him. He explained that he had a lot of personal family issues around that time, that the police were not doing anything for him then, and he did not want to put himself or his family in danger by talking to them.<sup>479</sup>
- xiv. James Ward said that he had a direct discussion about the murder with Glenn Vian, after he had sought Garry Vian's help in 1994 in evicting a troublesome tenant from a property he owned. He said that Glenn Vian offered to kill the tenant for £50,000, explaining that it would cost so much because it would require two men and a gun. He added that Glenn Vian said that he was now '*too old and fat to go round rolling on the floor*' so his plan was to shoot the troublesome tenant with the gun '*so he couldn't run*' and then '*do him with an axe the same as MORGAN*'.<sup>480</sup> James Ward said that Glenn Vian told him that Daniel Morgan's murder had been much cheaper, because it had happened years previously. He asked how much killing of Daniel Morgan had cost and Glenn Vian said £20,000 or £25,000. James Ward said that Garry Vian confirmed this sum to him during conversations. James Ward also said that it had never been his intention to have his tenant killed and he later negotiated through his solicitor to pay the tenant £5,000 to move out.<sup>481</sup>
- xv. James Ward also recounted an incident in which, while on home leave from prison, Jonathan Rees went to Glenn Vian's house to speak with Garry and Glenn Vian, his brothers-in-law. James Ward said '*Glen [sic] cut him with the carving knife. The blood was in Glen's kitchen on the floor. I asked whether Rees would do anything. Glen said "No"*'.<sup>482</sup>
- xvi. James Ward said that Garry Vian had also told him about an incident in which a relative of Glenn and Garry Vian had been said to have '*been mouthing off that Glen [sic] and Gary [sic] were responsible for the Daniel Morgan murder*' and that they had gone to '*warn him off*'. Glenn Vian had produced an axe from his coat and shouted that he was '*to keep his mouth shut or he'd get some of this*'.<sup>483</sup>

269. The debrief of James Ward concluded on 12 December 2006.<sup>484</sup>

477 Witness statement of James Ward, MPS090079001, p24, 09 November 2006.

478 Witness statement of James Ward, MPS090079001, p24, 09 November 2006.

479 Witness statement of James Ward, MPS090079001, p21, 09 November 2006.

480 Witness statement of James Ward, MPS090079001, p18, 09 November 2006.

481 Witness statement of James Ward, MPS090079001, p18, 09 November 2006.

482 Intel Reports, MPS107897001, p11, 27 July 2007.

483 Witness statement of James Ward, MPS090079001, p28, 09 November 2006.

484 Master Tape Disclosure list N97 Debriefs, MPS103663001, pp2-8, 22 May 2006



270. At trial James Ward pleaded guilty to 13 drugs offences and initially received a four-year sentence, reduced on 17 July 2007 to three years,<sup>485</sup> and the sentence he was currently serving (imposed on 27 July 2005) which had previously been reduced on appeal from 17 to 15 years,<sup>486</sup> was reduced again from 15 to five years on 09 March 2007.<sup>487,488</sup> It was recorded that he was released from prison on 24 December 2007.<sup>489</sup>

271. Following Operation Bedingham (the investigation into James Ward, Garry Vian and others in connection with serious crime, including money laundering; see paragraph 236 above), an investigation was conducted under the Proceeds of Crime Act 2002 into James Ward's assets. This investigation proceeded while James Ward was providing information to the Abelard Two Investigation as an Assisting Offender under the Serious Organised Crime and Police Act 2005. The financial investigation was conducted by police officers working with Stuart Sampson, who had dealt with Operation Bedingham and was dealing with the financial investigation. The purpose of such an investigation is to calculate:

- i. the amount to which a Defendant can be said to have benefitted from his criminal conduct; and
- ii. the amount of realisable assets which can be seized from him in full or part satisfaction of the amount determined in calculation.

272. This enables the Crown to recover available assets from the defendant. Stuart Sampson was asked by DCS David Cook to advise the Abelard Two Investigation, which ran at the same time as the financial investigation into James Ward's assets.<sup>490</sup>

273. On 22 November 2006, it was calculated that James Ward had received a benefit from his criminal activity of £3,752,703.15, but his available property was valued at £1,428,743.68. James Ward challenged this figure. In his formal response, his solicitor argued that the usual statutory assumptions under the Proceeds of Crime Act 2002 (that all property held for the preceding six years was the result of criminal activity unless the defendant could prove otherwise) should be set aside in his case in favour of James Ward's contentions. It was suggested that the manner in which he confessed to his crimes during the debriefing process necessarily entailed him being open and honest '*so that potentially he can be put before the court as a cleansed individual*'. As this level of truthfulness '*was seen as an essential component of the defendant's integrity*',<sup>491</sup> it was argued that his submissions<sup>491</sup> on the Proceeds of Crime Act 2002 issues be accepted, wholly, and without the usual need to provide any supporting evidence. Therefore, according to James Ward's formal response, the benefit received should be calculated as £1,551,904.90<sup>492</sup> and his '*available property*' as £621,494.84. Mr Justice Mitting, sitting in the High Court, referred to this suggestion as a '*none-to-subtle [sic] plea for favourable treatment because of the co-operation which he had given to the murder inquiry*'.<sup>493</sup>

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485 Rees & Ors v Commissioner of Police of the Metropolis Amended Defence, CIV000001001, p27, 22 December 2015.

486 Certificate of Conviction, James Ward, MPS107891001, p2, 12 December 2006.

487 Rees & Ors v Commissioner of Police of the Metropolis Amended Defence, CIV000001001, p27, 22 December 2015.

488 James Ward Chronology, CLA000106001, p25, undated

489 Minutes of office meetings, MPS071803001, p62, 09 January 2008.

490 Panel interview with Stuart Sampson, PNL000184001, p1, 06 February 2020.

491 Defendant's Response to a Statement of Information, Section 17 Proceeds of Crime Act, MPS097314001, p5, 29 November 2006.

492 Defendant's Response to a Statement of Information, Section 17 Proceeds of Crime Act, MPS097314001, p17, 29 November 2006.

493 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, pp11-12, para 49, 17 February 2017.

274. James Ward's suggestion<sup>494</sup> that his statements as to benefit and realisable assets overarch the statutory assumptions, would have entailed the Court accepting his calculations without the need to produce supporting evidence. That had the effect of reversing the burden of proof and usurping the assumptions set out in section 10 of the Proceeds of Crime Act 2002 – these being that, in relation to all property held and expenditure made during the previous six years, (i) they were the fruits of criminal activity and (ii) such property obtained was free from any other interest.

275. The Crown and James Ward agreed a figure of £999,229.17 as being the total figure for his available assets. In approving of and then making the necessary order, Mr Justice Kramer congratulated the financial investigation officers for their good work on the case.

276. James Ward's '*available property*' consisted mainly of two houses. In cases such as this, it is for the defendant to sell the property available and make the proceeds of sale available to the Crown, or to agree to hand over the sale of the property to the Crown, in satisfaction of the order.

277. On 17 October 2007, the Confiscation Unit at the Central Accounting Office wrote to James Ward's solicitors providing a breakdown of the monies received, as of that date, in realisation of the confiscation figure. It was £632,965.40 rather than the original valuation of £999,229.17. The reasons for the reduction were explained and the Crown then agreed to accept £632,965.40 (a figure almost identical to that originally suggested by James Ward (see paragraph 273 above) in satisfaction of the original confiscation order).

278. The Panel has examined the negotiations which took place during the course of the Proceeds of Crime Act 2002 proceedings. It is not uncommon for the initial figure identified by the financial investigator to be reduced in the light of further emerging evidence about the available property and fluctuations in property values.

279. During the High Court proceedings brought in 2017 by Jonathan Rees, Glenn Vian, former DS Sidney Fillery and Garry Vian against the Commissioner of Police for the Metropolis, presided over by Mr Justice Mitting (see Chapter 9, Post-Abelard Two), questions were asked by the claimants and their legal advisors about whether the confiscation process under the Proceeds of Crime Act 2002 had been subverted by former DCS David Cook or any other member of the Abelard Two Investigation, to secure the reduction in value (which occurred when James Ward was providing information in an expectation that he would give evidence in accordance with his witness statements). In effect, the question was whether James Ward had been induced to give evidence by the reduction of the value in the available assets, and therefore of his liability to the Proceeds of Crime Act order.

280. Mr Justice Mitting rejected any such suggestion saying that '*[t]he reduction, by itself, cannot give rise to a finding that COOK or another investigating officer subverted the confiscation process*'.<sup>495</sup> During the Court of Appeal hearing presided over by Lord Justice

494 Referring to his Defence, Defendant's Response to a Statement of Information, Section 17 Proceeds of Crime Act, MPS097314001, p4, 29 November 2006.

495 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p12, para 50, 17 February 2017.

McCombe, Lady Justice King and Lord Justice Coulson in 2018, this issue was not raised, but Lord Justice McCombe stated in paragraph 2 of his judgment that he adopted *'entirely the facts as found by Mitting J'*.<sup>496</sup>

281. It is clear that from the beginning of these proceedings, Stuart Sampson of the Crown Prosecution Service was prepared to adopt a flexible approach towards James Ward. At the beginning of the Proceeds of Crime Act 2002 investigation he wrote:

*'Because the subject is awaiting confiscation proceedings it has to be made quite clear that we can make no deals regarding this although there is some room for latitude within the general principles. There has in any event to be full financial disclosure within the process; the confiscation FIs [Financial Investigators] will be brought on board so that they can check what is said as well as making any necessary amendments to their evidence.'*<sup>497</sup>

282. In a note of 18 August 2006, he wrote:

*'A major problem for [James Ward] is confiscation. I have stated that there can be no departure from the statute but that, within the principles laid down, there is some room for manoeuvre but that depends on [James Ward]. I will discuss this further with the FIs and Counsel on the confiscation who is appraised of the overall position.'*<sup>498</sup>

283. Stuart Sampson also wrote by way of summary:

*'From my experience dealing with a significant number of cases over the years I have come to the view that there is a need for some reality in dealing with confiscation matters and that, in any particular case, a practical view can be taken without departing from general principles; the legislation is draconian and a too sanctimonious and legalistic approach is not desirable, especially with defendants who show a proper willingness to cooperate. The recommendations of the House of Lords in the case of May and others were a welcome corrective.*

*Generally speaking, in my experience, there is often a significant disparity between the initial assessment of the benefit figure and that finally agreed or determined; there will often be good points raised in relation to double counting and valuations. If a defendant declines to cooperate and/or challenges the figures in an unconstructive manner he runs the risk of being saddled with a high benefit figure. A defence team who are constructive in their approach are more likely to achieve success either by agreement or after a contested hearing.'*<sup>499</sup>

284. Stuart Sampson told the Panel that had James Ward challenged the confiscation there would have been problems with him as a witness as he would have lost credibility. Stuart Sampson said, *'I wanted him to come out as clean as possible'*, adding that there was also a possibility of the investigation against his wife (and possibly his son) having an impact.<sup>500</sup> There were difficulties in getting hold of the papers for the first investigation in relation to his wife.

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496 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p2, para 2, 05 July 2018.

497 Crown Prosecution Service Note, p1, 23 May 2006.

498 Crown Prosecution Service Note, p1, 18 August 2006.

499 Prosecution Note on Ward Confiscation, p2, 29 October 2009.

500 Panel interview with Stuart Sampson, PNL000184001, p3, 06 February 2020.

Nevertheless, he said, the objective was to get as much money from them as possible while coming to an agreement, thereby avoiding James Ward challenging the issue in court, and decisions were made based on the evidence.<sup>501</sup>

285. James Ward was listed as a witness for the forthcoming trial of those accused in connection with the murder of Daniel Morgan.

286. In effect, James Ward was in a strong position because the Abelard Two Investigation wanted to keep him as a witness. He gained both a financial settlement which was in his interest, and a reduced prison sentence. As a result of the withdrawal of the prosecution he did not even have to give evidence as a witness in a trial.

287. The written comments made by Stuart Sampson in 2006, at the beginning of the confiscation process, were somewhat unwise, in that they were open to the interpretation that he was prepared to offer James Ward an improper incentive in return for giving evidence. Indeed, that is what lawyers acting for the Defendants alleged. However, there is no evidence in this context of any improper influencing of James Ward to give his evidence to the Abelard Two Investigation in return for a reduction in the value of his available property during the financial investigation. Everything which Stuart Sampson did was agreed by Mr Justice Kramer.

## 6.2 Person F11

288. The ongoing review of previous material also highlighted a statement provided by Person F11 on 22 January 1999, outlining his knowledge of the murder of Daniel Morgan.<sup>502</sup>

289. Person F11 had been charged on 18 September 1998 with conspiracy to murder James Cook and other offences.<sup>503,504</sup> Sometime after this he had indicated that he had knowledge of serious criminality, in particular, corrupt police officers, and would provide evidence in return for a reduction in sentence. He had been afforded 'Resident Informant' status,<sup>505</sup> and had entered into a debriefing process on 25 September 1998.<sup>506</sup> He was debriefed on 12 occasions between 30 September 1998 and 24 February 1999. The majority of his evidence concerned alleged corrupt activity by former DC Duncan Hanrahan.

290. In his statement dated 22 January 1999, Person F11 referred to the murder of Daniel Morgan, saying the following:

- i. *'In 1989 or 1990 Jimmy COOK confided in me that he and a man named Glen [sic] VINES [Vian] had committed a murder.'*
- ii. *'[T]he man who was murdered was either a serving or ex-policeman and had been a partner in a private investigation firm in Thornton Heath.'*

501 Panel interview with Stuart Sampson, PNL000184001 p3, 06 February 2020.

502 Witness statement of Person F11, MPS078631001, 22 January 1999.

503 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, p7, 12 September 2007.

504 Those offences were not related to the murder of Daniel Morgan or the investigation of his murder.

505 The process used before the implementation of the Serious Organised Crime and Police Act 2005.

506 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, p7, 12 September 2007.

- iii. *'[T]he other partners in the firm had had an argument with the man who was killed and [James] COOK and VINES [Vian] had been paid by John REES to commit the murder.'*
- iv. *'Jimmy COOK [...] was the driver and Glen [sic] VINES [Vian] had committed the murder by striking the victim in the head with the axe. Basically, Jimmy COOK had driven Glen VINES to meet the victim. I know the victim had been found in a car park but I did not know if this was where he was murdered.'*
- v. *'The car that [James] COOK drove when taking Glen [sic] VINES [Vian] to kill the victim was hidden in a garage in Cheam after the murder [...] a man named [Person P9] used the garage [...] It was stored there and covered with a tarpaulin [...] when things had died down they had collected the car and destroyed it.'*
- vi. Person F11 described where the garage was and to whom it belonged.
- vii. *'[Person P9] did not know that the car had been involved in a murder [...] At that time Jimmy COOK was involved in stealing and ringing cars and [Person P9] thought that it was another stolen car that COOK wanted him to store.'*
- viii. *'Jimmy COOK regretted telling me about the murder because COOK and VINES [Vian] later threatened me that if ever I said anything Glen [sic] VINES would kill me, my children and my family.'*
- ix. *'Sometime in 1994 or 1995 [James] COOK threatened me and told me to kill [Person P9] [...] [Person P9] had become aware that the car that he had looked after in the garage had been used in a murder. COOK gave me fourteen days to kill [Person P9] or he said I would be killed. I took the threat very seriously but I told him I wouldn't kill [Person P9] and said "you'll have to do what you've got to do then." '*
- x. *'About six months to a year later [James] COOK and VINES [Vian] [...] both told me that if I ever repeated anything to anyone about the murder then they would kill me.'*<sup>507</sup>

291. On 08 July 1999, Person F11 was convicted of conspiracy to murder James Cook and other offences and sentenced to seven years' imprisonment.<sup>508</sup> The sentence was later reduced by the court to five years because he had provided information to the police about the murder of Daniel Morgan and other investigations.<sup>509</sup>

292. In December 2000, Person F11 wrote to his solicitor indicating that he had signed his statement under duress, claiming to have a tape-recording of a police officer admitting this fact. He said that he wanted *'to make sure that this statement is never produced before anybody as my life and families [sic] life would be in danger'*.<sup>510</sup> However, neither he nor his solicitor had previously alleged that the statement was made under duress.

293. Having secured a reduction in his sentence, Person F11 then refused to assist any further.

294. Person F11 had been asked on 01 June 2002 whether he would give evidence of the content of his previous statement. He had immediately declined, fearing for his safety and that of his family.

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507 Witness statement of Person F11, MPS078631001, pp2-6, 22 January 1999.

508 Record of Contact with Person F11 17 September 1998 to October 2007, MPS103708001, p9, 12 September 2007.

509 Abelard II Report to the Crown Prosecution Service, MPS103338001, p30, 13 June 2007.

510 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, pp3 and 37, 25 June 2002



295. On 25 June 2002, in advance of the *Crimewatch* appeal being aired, DCS David Cook and DI Neil Hibberd visited Person F11 to inform him of the reinvestigation into Daniel Morgan's murder. Person F11 confirmed that the content of his statement was true, but he said that he would never give evidence against James Cook or Glenn Vian through fear, and if he was ever called to give evidence he would claim that he signed his statement under duress.<sup>511</sup>

296. On 26 June 2002, after the *Crimewatch* programme, a man contacted the Metropolitan Police and confirmed that Person F11 had told him that James Cook and Glenn Vian were involved in Daniel Morgan's murder and that Person P9 had disposed of the vehicle.<sup>512</sup>

297. On 03 October 2002, Person F11 told police that the car used by James Cook and Glenn Vian for the murder of Daniel Morgan was a green VW Golf.<sup>513</sup>

298. In May 2006, DCS David Cook telephoned Person F11 to tell him about the further reinvestigation of Daniel Morgan's murder.<sup>514</sup> In April 2007, Person F11's solicitor was advised that Person F11's statement might be released by police during any trial.<sup>515</sup>

299. On 19 April 2007, police received intelligence that Person F11 was again planning to kill someone.<sup>516</sup> On 30 April 2007, the police attended Person F11's solicitor's office, and in the presence of his solicitor the police told Person F11 that they had received this information and gave a warning about the matter. Person F11 assured police that he had no intention of harming the third party.<sup>517</sup>

300. On 12 September 2007, DS Gary Dalby produced a report on the chronology of events, from 1998 to 2007, surrounding the arrest and debrief of Person F11, and the evidence supplied by him in 1999 regarding the murder of Daniel Morgan.<sup>518</sup> In conclusion, DS Dalby noted that **'[t]he most important fact remains, despite all [Person F11]'s protestations he has never claimed that he is not telling the truth'** [bold in original].<sup>519</sup> DS Dalby asked an officer who had had previous responsibility for Person F11 to make a statement.<sup>520</sup> This he did in February 2008, confirming that Person F11 had become increasingly uncooperative after he had pleaded guilty and been sentenced in July 1999, and he had refused to give evidence about the information he had supplied earlier.<sup>521</sup> Despite this, police continued to try and secure him as a witness, attempting to persuade him to give evidence, given the importance of the information which he had provided.

301. A reasoned decision not to use Person F11 as a witness was finally made, which took into account his current activities, the fact that he had been convicted of conspiracy to murder James Cook, against whom he was a critical witness, that he was hostile to James Cook and that information had again recently been received that Person F11 had intended to kill someone. Therefore, Person F11 had a motive to lie when giving evidence. He had also stated that he had given the evidence under duress. After consultation with the Crown Prosecution Service and Prosecution Counsel, DI Douglas Clarke recorded a decision on 10 December 2010

511 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, p37, 25 June 2002.

512 Witness statement, MPS103319001, p16, June 2002.

513 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, p41, 03 October 2002.

514 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, p4, 07 October 2007.

515 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, p4, 07 October 2007.

516 Record of contact with Person F11 17 September 1998 to October 2007, MPS103708001, pp51-53, 23 April 2007.

517 Record of contact with Person F11 N1020 17/09/1998 TO OCTOBER 2007, MPS103708001, p50, 01 May 2007.

518 Record of contact with Person F11, 17 September 1998 to October 2007, MPS103708001, pp7-11, 12 September 2007.

519 Record of contact with Person F11, 17 September 1998 to October 2007, MPS103708001, p11, 12 September 2007.

520 Record of contact with Person F11 N1020 17/09/1998 to October 2007, MPS103708001, p11, 12 September 2007.

521 Witness statement of [...], MPS078973001, 26 February 2008.

noting that a formal decision had been made that Person F11 was no longer required as part of the prosecution case in the trial of Jonathan Rees, former DS Sidney Fillery, Garry Vian and Glenn Vian.<sup>522</sup>

302. The Abelard Two Investigation acted correctly in seeking evidence from Person F11, even though he had been convicted of conspiring to murder James Cook. However, it was regrettable that Person F11 was able to use the legal system to his benefit in securing a reduction in his sentence despite later refusing to give evidence.

### 6.3 Kevin Lennon

303. On 30 June 2006, while considering the information supplied by James Ward and by other previous witnesses, the Abelard Two Investigation reconsidered the evidence which had previously been provided by Kevin Lennon (see Chapter 1, The Morgan One Investigation). Kevin Lennon had not come forward initially as a witness in 1987 but had been covertly recorded by former DCI Laurence Bucknole (see Chapter 1) telling him that, among other things, Jonathan Rees had sought a killer for Daniel Morgan. When confronted with the recording he had acknowledged it to be true. He had confirmed this evidence in a statement to police on 28 June 2002 and had said that he was prepared to go to court and give evidence.<sup>523</sup>

304. The Abelard Two Investigation was aware that on 18 August 1999, during Operation Two Bridges, Jonathan Rees and former DS Alec Leighton had been heard conspiring to offer £2,000 to Kevin Lennon to say in forthcoming civil proceedings that he had been put under pressure by the police to change his account.<sup>524</sup> The Panel has seen evidence indicating this conspiracy in the form of email correspondence between former DS Alec Leighton and another convicted former police officer. The emails were recovered from former DS Leighton's computer by the Serious Organised Crime Agency in the course of an unrelated investigation.<sup>525</sup>

305. On 17 February 2003, when interviewed by police about this, Kevin Lennon said that he did not know former DS Alec Leighton. He also told the officers that he was worried about the safety of his family if he said any more, and that he would not give any more information than that contained in his statements. He did, however, tell them that he believed that Jonathan Rees and Daniel Morgan were supposed to be meeting a man called 'Dave' on the night of the murder at the Golden Lion public house. He believed that 'Dave' would have been capable of the murder. He provided no further information.<sup>526</sup>

306. While reviewing materials from the previous investigations of the murder, police officers found that Kevin Lennon *'had commissioned the assistance of a [...] friend and others not to kill MORGAN but to take money from REES by pretending to have arranged the killing and stealing*

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522 Decision 217, Sensitive Decision Log, MPS080534001, p2, 10 December 2010.

523 Witness statement of Kevin Lennon, MPS062383001, 28 June 2002.

524 Abelard II, Enhanced Transcript, MPS000867001, p10, 18 August 1999.

525 Email exchange between Alec Leighton and a former police officer, PNL000193001, p1, 06 September 2008.

526 Action 388 (Op Morgan 2), Enquiries of Kevin Lennon, MPS103319001, pp8-9, 17 February 2003.

*the deposit from him*'.<sup>527,528</sup> When asked about this on 16 August 2006, Kevin Lennon had responded: *'I can honestly state I do not remember meeting with anyone to arrange to "Rip Off" Rees. [...] my health has deteriorated [...] and my memory is not as good as it was.*'<sup>529</sup>

307. Police financially supported Kevin Lennon over the next four years, and he continued to agree to give evidence, although he did not wish to do so in open court.<sup>530</sup> There is evidence that consideration was given to the impact on the credibility of Kevin Lennon of the fact that he willingly became involved in a scam to steal money from Jonathan Rees by purporting to arrange the murder of Daniel Morgan. This, and his criminal record, would have diminished his credibility in the eyes of a jury. Nevertheless, he was retained as a witness.

## 6.4 Gary Eaton

308. As part of the strategy to secure further evidence, as mentioned above (see paragraph 221), an article was placed in *The Sun* newspaper<sup>531</sup> about the reinvestigation.<sup>532</sup> On 22 July 2006,<sup>533</sup> Gary Eaton contacted *The Sun's* news desk and made a request for their Chief Crime Reporter, Michael Sullivan (who had written the article), to contact him.<sup>534</sup> Gary Eaton informed Michael Sullivan that he wanted to meet him to provide information on the Daniel Morgan murder.<sup>535</sup> This resulted in a face-to-face meeting between them.<sup>536</sup>

309. Gary Eaton's statements show he was a long-term criminal associate of James Cook,<sup>537</sup> carried out work for Southern Investigations; and was an associate of those who worked at Southern Investigations.<sup>538</sup> Gary Eaton had convictions for offences dating from 1981 to 2006,<sup>539</sup>

527 Action 388 (Op Morgan 2), Enquiries of Kevin Lennon, MPS103319001, p9, 17 February 2003.

528 Abelard II Report to the Crown Prosecution Service, MPS103338001, p253, 13 June 2007.

529 Witness statement of Kevin Lennon, MPS077680001, p1, 16 August 2006.

530 Section 17 of the Youth Justice and Criminal Evidence Act 1999 deals with intimidated witnesses and provides that special measures may be provided where the quality of evidence given by a witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in criminal proceedings. The special measures which may be relevant for intimidated witnesses are, amongst others: screening the witness from the accused; evidence by live link; evidence given in private. Special measures are not available as of right if a witness qualifies as an intimidated witness. Section 19 of the Youth Justice and Criminal Evidence Act 1999 sets out the factors a judge must consider when an application is made by the prosecutor on behalf of an eligible witness. <https://www.cps.gov.uk/legal-guidance/witness-protection-and-anonymity>

531 Cops in 'kill' plot', *The Sun* newspaper, MPS108253001, p1, 12 July 2006.

532 Operation Abelard Briefing, MPS109704001, pp88-89, undated.

533 Rees & Ors v Commissioner of Police for the Metropolis, Amended Defence CIV000001001, p28, 22 December 2015.

534 Record of Debrief Interview with Gary Eaton, MPS109039001 p318, 01 September 2006.

535 Record of Debrief Interview with Gary Eaton, MPS109039001 p319, 01 September 2006.

536 Record of Debrief Interview with Gary Eaton, MPS109039001 p319, 01 September 2006.

537 Witness statement of Gary Eaton, MPS000116001, p1, 15 June 2007.

538 Witness statement of Gary Eaton, MPS076390001, p2, 20 April 2007.

539 Police National Computer printout, MPS004040001, p2, 08 September 2008.

which were listed as including offences against the person,<sup>540</sup> fraud,<sup>541</sup> theft,<sup>542</sup> offences relating to law enforcement,<sup>543</sup> drugs offences,<sup>544</sup> and miscellaneous offences.<sup>545</sup> Gary Eaton had served several short prison sentences.<sup>546</sup>

310. Gary Eaton later stated that he had approached the newspaper directly as he had had personal experience of police corruption and he did not know who to trust.<sup>547</sup>

311. With the help of Michael Sullivan, on 24 July 2006,<sup>548</sup> DCS David Cook arranged a meeting between Gary Eaton and two officers from the Abelard Two Investigation. However, Gary Eaton stated that he would speak only to DCS Cook because of his fear of police corruption, and his belief in DCS Cook because of his role in the prosecution and conviction of former DS Sidney Fillery<sup>549</sup> for offences unrelated to the murder of Daniel Morgan.<sup>550</sup>

312. DCS David Cook, therefore, sought permission to meet Gary Eaton from Commander Shaun Sawyer who agreed to the meeting subject to the proviso that once Gary Eaton's '*credibility etc has been established, responsibility for any further meeting should be handed over to other officers employed on the investigation and DCS COOK revert back to his role as SIO [Senior Investigating Officer]*'. Commander Sawyer then continued that, '*[h]e must not meet the individual on his own*'.<sup>551</sup> In his Decision Log dated 25 July 2006, DCS Cook stated that Gary Eaton had come forward to give information/evidence in relation to the murder of Daniel Morgan '*as a direct result of the article placed in [T]he Sun two weeks ago*'.<sup>552</sup> However, on 27 July 2006, during a meeting with DS Gary Dalby, Gary Eaton denied any recollection of a newspaper article in relation to the murder of Daniel Morgan, or in fact reading newspapers at all.<sup>553</sup>

313. Examination of the material available does not reveal why Gary Eaton came forward as a witness in 2006. His criminality was not under investigation by the police and he had no apparent motive to do so. The consequence of his admission of multiple crimes and his involvement as an Assisting Offender under the Serious Organised Crime and Police Act 2005 was that he went to prison, albeit with a much-reduced sentence.

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540 2000.

541 1983-1988.

542 1981-1985.

543 1983-2005.

544 2002.

545 1999-2006.

546 Including a three-month sentence for theft in 1985, a three-month sentence for driving with excess alcohol in 2002, a five-month sentence for driving while disqualified in 2005 and a four-month sentence for driving with excess alcohol in 2006.

547 Record of Debrief Interview with Gary Eaton, MPS109039001, p321, 01 September 2006.

548 Copy of Decision Log by DCS David Cook in relation to Gary Eaton, MPS109615001, p1, 25 July 2006.

549 Copy of Decision Log by DCS David Cook in relation to Gary Eaton, MPS109615001, p1, 25 July 2006.

550 Historical Arrest/Disposal Information, MPS071822001, pp1-6, 08 May 2006.

551 Copy of Decision Log by DCS David Cook in relation to Gary Eaton, MPS109615001, p1, 25 July 2006.

552 Copy of Decision Log by DCS David Cook in relation to Gary Eaton, MPS109615001 p1, 25 July 2006.

553 Audio Transcript, MPS006748001, pp83-84, 27 July 2006.

314. DCS David Cook, DS Gary Dalby and Gary Eaton first met on 26 July 2006. The meeting was recorded covertly by police, and Gary Eaton, like James Ward, expressed fears for his own safety and that of his family. Gary Eaton was not in prison at this time, and this meant that if he were to be debriefed, then special arrangements would have to be made to protect him. Legal advice was sought, and ultimately a decision was taken to proceed with the debrief.<sup>554</sup>

315. During the meeting on 26 July 2006:

- i. Gary Eaton talked first about James Cook, said that *'he think[s] he is invincible'*, and said that he (Gary Eaton) was *'shit scared of him I am. Very wary'*.<sup>555</sup>
- ii. Gary Eaton referred to Person G23 and said that *'Jimmy Cook turned up at [Person G23's] work two weeks ago. Like a little reminder to keep schtum, type of thing. He turned up with a bloke [...] [Person G23] had to leave [...] job straight away. [Person G23] left [...] job that night, I changed [Person G23] phone number everything [...] My main concern is my family and [Person G23].'*<sup>556</sup> Later in the interview, Gary Eaton said that Michael Sullivan had *'asked [Person G23] when did they go to the shop and we worked it out it was the same day when the article was wrote [sic] [referring to the murder of Daniel Morgan]. Like I said it seems like a little reminder to you but to keep that schtum because they know where [Person G23] is.'*<sup>557</sup>
- iii. Gary Eaton returned to the theme of his fears for Person G23 and for his daughter, repeatedly during the interview.
- iv. Gary Eaton said that *'Jimmy Cook is well connected with all the police down my way. Very well connected.'*<sup>558</sup>
- v. Gary Eaton went on to say *'[s]ee the thing is, your [sic] not only talking about Sid are you? Because the people that are involved in this you have got to have them as well because if they don't all go'*, to which DCS Cook said, *'[g]ive me the names of the brothers'*, and Gary Eaton continued *'[b]ecause if they don't all go I am at risk all the time'*.<sup>559</sup>

316. The transcript which follows these exchanges is slightly unclear and is as below:

<i>DCS COOK</i>	<i>Give me the name of the brothers</i>
<i>GARY</i>	<i>The main person of the brothers, you want the main name?</i>
<i>DCS COOK</i>	<i>yeah</i>
<i>GARY</i>	<i>We been talking about him haven't we.</i>
<i>DCS COOK</i>	<i>Jimmy</i>
<i>GARY</i>	<i>Yeah</i>

554 Copy of Decision Log by DCS David Cook in relation to Gary Eaton, MPS109615001, pp2-3, 05 September 2006.

555 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p2, 26 July 2006.

556 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p4, 26 July 2006.

557 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p5, 26 July 2006.

558 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p5, 26 July 2006.

559 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, pp5-6, 26 July 2006.



- DCS COOK            *Yeah, the other one that was there though. I know who it is but I want you to tell me*
- GARY                 *I don't know the other. All's [sic] I know was Jimmy.*
- DCS COOK            *Jimmy was there. OK*
- DCS COOK            *I know who was involved in it from my side.*
- GARY                 *Jimmy had massive involvement in all this. Jimmy had massive involvement in all this, massive involvement. I done a lot of work for Southern Investigations. I used to work for them, simple jobs. That's how I got to meet them through Jimmy.<sup>560</sup>*

317. Despite the fact that DCS David Cook asked Gary Eaton twice to give him the names of the brothers (he was referring to Glenn Vian and Garry Vian), Gary Eaton either knew nothing about 'the brothers' or he misunderstood the question. Gary Eaton did not respond but went on talking about James Cook, former DS Sidney Fillery and Jonathan Rees. By asking the question repeatedly, DCS Cook was leading the witness to provide specific information, which Gary Eaton appeared not to understand. It is also possible that Gary Eaton did know the names of the brothers but pretended not to know them to former DCS Cook.

318. When asked how long he had worked for Southern Investigations, he responded as follows:

- 'GARY                 *I worked for them from early eighties. I worked for them for about eight or nine years.*
- DCS COOK            *And that is when it was just Danny and Johnny [sic] REES?*
- GARY                 *Yeah and Sid*
- DCS COOK            *Yeah Sid was at Catford*
- GARY                 *Sid had a lot of involvement. I had more dealings with Sid than I did with Jonathan.<sup>561</sup>*

319. Gary Eaton went on to say, 'I met him [former DS Sidney Fillery] through Jimmy. Jimmy has known him for a long long time. A long long time.'<sup>562</sup>

320. When asked how James Cook got to know former DS Sidney Fillery, he said 'I don't know but they were long term involved for a long long time, very connected with the Irish crowd who Jimmy [Cook] is involved with in drugs.'<sup>563</sup> He provided further information about the alleged drug dealing.

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560 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p6, 26 July 2006.

561 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p7, 26 July 2006.

562 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p7, 26 July 2006.

563 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p8, 26 July 2006.

321. Gary Eaton then told DCS David Cook that former DS Sidney Fillery was linked to the murder of a person whom he named, and provided some details of that murder.<sup>564</sup> When asked, *'What was Sid to do with that?'* he responded, *'[i]t was to do with his firm [...] I know certain things about Sid what he is involved in other things and he is connected with Jimmy.'* He went on to say, *'every time I was with Jimmy we dealt with Sid not John. [...] We had more meets with Sid than we did with Jonathan.'* He continued: *'Obviously you have looked at one side of his life but not the other side. The other bit he was involved in, there is a lot of other things involved [...] I know these people I'm shit scared I am.'*<sup>565</sup>

322. Later Gary Eaton told DCS David Cook that he had *'lived next door to Jimmy's mum and dad for sixteen years and his young son [...] used virtually to live with me [...] He knows that I know too much [...] He knows I know about Sid, I know virtually everything and I know so much about this stuff and I have been warned by him before I have had a couple of gentle warning [sic] to keep schtum.'*<sup>566</sup> He continued, *'I can give you Sid and I can give you Jimmy. (Inaudible) them fuckers to put them down yeah but I need guarantees that my family are going to be safe.'*<sup>567</sup>

323. When giving his reasons for wanting to assist the police, Gary Eaton said that he *'just want to put things right so I can get on with my life [...] For the last six years I have not had a life [...].'*<sup>568</sup> He was only able to *'sleep two hours a night, I have lost seven stone in the last nine months I have just spent nearly a month in hospital [...].'* Referring to James Cook's arrest in 2002, Gary Eaton said that he *'really didn't get involved in it'*. He referred to having a nervous breakdown when James Cook was arrested and being in a psychiatric unit. He also said his marriage broke up at the time.<sup>569</sup>

324. DCS David Cook asked Gary Eaton: *'What was Sid's involvement in the murder.'* He responded, *'Sid set it up.'*<sup>570</sup>

325. When asked how he knew this, Gary Eaton said, *'I was actually approached to do it myself.'*<sup>571</sup> He explained that James Cook had approached him.

326. DCS David Cook then asked Gary Eaton again about the occasion on which James Cook approached him, and what was asked of him. He replied, *'I was asked to do the job myself and would I like to earn vast amount of money to do the job and I refused out right. I am not into that side of things [...] I was offered fifty grand. Fifty grand cash [...] I was going to get paid through Jimmy I was going to get paid for the hit and I swear this on my kids [sic] lives.'* Gary Eaton said that James Cook told him *'that Sid wanted the job done'*.<sup>572</sup>

327. When asked why Daniel Morgan was murdered, he said, *'[t]he impression I got was that he got wind of the other's [sic] dealing. Sid Fillery and Jonathan Rees had a lot of other things going on in the partnership.'* He continued, *'[t]hey were importing a lot of drugs and there were a lot of drugs and they still come in, I was picking up van loads of the stuff, I'm talking van loads. Van loads.'*<sup>573</sup> DS Gary Dalby asked, *'[w]hat sort of gear?'* Gary Eaton responded, *'[v]ast quantities of cash involved as well [...] The Irish boys would drive the stuff over on the ferry. Park up. I would*

564 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p10, 26 July 2006.

565 "Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, pp10-11, 26 July 2006.

566 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p12, 26 July 2006.

567 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p13, 26 July 2006.

568 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p14, 26 July 2006.

569 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p50, 26 July 2006.

570 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p16, 26 July 2006.

571 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p31, 26 July 2006.

572 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p33, 26 July 2006.

573 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, pp31-32, 26 July 2006.

*drive a four wheel drive and that would be parked, they had a proper car park at the side. Keys would be left in the sun visor. I would pick the van up and we would drive around for the rest of the day until we disposed what we had. This is where Sid was involved with Jimmy as well.*<sup>574</sup>

328. Gary Eaton said that James Cook had been involved in drugs with someone called 'Irish Tom'. DCS David Cook then asked if 'Irish Tom' had *'anything to do with a cemetery or anything else like that? Tell us about that [...] I am telling you there is a cemetery involved [...] I am giving you a starter for ten saying that I know about a cemetery and I don't know if it has any connection to all this.'*<sup>575</sup> Gary Eaton did not respond to this suggestion.

329. DCS David Cook should not have suggested to Gary Eaton that there was a cemetery involved. By so doing, he was acting improperly and leading the witness, in a way he had done similarly by introducing the term *'the brothers'*.

330. DCS David Cook later asked Gary Eaton again about the reason for the murder. Gary Eaton replied, *'[t]he way I read things is that Danny found out about the other dealings that were going through the company, the money that was going through the laundering and the drugs. There was a lot of things about an affair that was going on. I don't think that was the true reason I really don't.'*<sup>576</sup> Gary Eaton went on to provide some information about the alleged affair, saying he had met the woman.<sup>577</sup>

331. DCS David Cook said that he had not heard previously that former DS Sidney Fillery had been involved in drugs. Gary Eaton said, *'I can get proof for you. If you want proof I will get proof. I will get people to talk to you about this a lot.'* He went on, *'I have spoken to two of them already to back up what I am saying ok.'*<sup>578</sup>

332. When asked where the £50,000 for the murder was coming from, Gary Eaton replied, *'[t]hey had money. There was money floating about everywhere [...].'* He said it was to come from *'Sid's side'* through James Cook.<sup>579</sup>

333. Gary Eaton then told DCS David Cook that James Cook had approached another man, whom he named, and asked him if he would murder Daniel Morgan. The man whom he named had since been convicted of the murder of another individual and was serving a life sentence in prison. He said that he did not know how this man had responded.<sup>580</sup>

334. Gary Eaton was asked about Jonathan Rees's involvement in the murder. He replied, *'I don't think he had any involvement in the actual murder myself [...] He was well aware of it. He did have involvement in that side of it. I'm ninety nine per cent sure he did.'*<sup>581</sup> Gary Eaton later reasserted that Jonathan Rees had no role in the murder, stating *'see Jonathan, I won't mention him because he doesn't really come into it does he?'*<sup>582</sup>

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574 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p32, 26 July 2006.

575 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p8, 26 July 2006.

576 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p34, 26 July 2006.

577 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, pp34-36, 26 July 2006.

578 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p32, 26 July 2006.

579 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p36, 26 July 2006.

580 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p34, 26 July 2006.

581 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p36, 26 July 2006.

582 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p49, 26 July 2006.

335. Gary Eaton said that he did not know who had committed the murder.<sup>583</sup>

336. DCS David Cook asked Gary Eaton about any links he had with *'bent coppers'*.<sup>584</sup> He replied, *'[a]s far as I know three of them are still in the job, there are three of them. I know that Jimmy still has links with two of them and Jimmy still gets information and that's what I'm fucking shit scared of. He can still find things out.'*<sup>585</sup>

337. DCS David Cook and DS Gary Dalby discussed with Gary Eaton how he might give evidence under the Serious Organised Crime and Police Act 2005, informed him about the process, and advised him to take legal advice. It was agreed that DS Dalby would meet him the following day.<sup>586</sup>

338. On 27 July 2006, DS Gary Dalby, who was unaccompanied, met Gary Eaton again and, as previously, the conversation was covertly recorded by police. Later in the afternoon, Gary Eaton was introduced to a solicitor to whom he spoke privately. After the initial conversation about what Gary Eaton was proposing to do, he told DS Dalby that he had *'decided to go ahead'*. DS Dalby told him that he needed to speak to his solicitor at length.<sup>587</sup>

339. There were lengthy discussions about arrangements for a debrief, and DS Gary Dalby said to Gary Eaton, *'[w]hat I need from you is a general 10 minute overview of what your [sic] going to be telling us'*.<sup>588</sup>

340. Gary Eaton confirmed, among other things, that:

- i. he had been offered £50,000 to murder Daniel Morgan, saying that there *'was a lot of money going around, flying around with Fillery'* and a *'lot of drugs floating around'*. He said that there was money around from *'business dealings concerning the boys in Ireland. It all came from Ireland. It still does. Comes in from Southern Ireland.'* He described the nature of *'the business'*, saying it involved *'cocaine, cannabis, resin bars'*.<sup>589</sup>
- ii. Daniel Morgan was killed *'because he found out about what was going on. All the back handed deals, the things that were going on. I mean, there was big talk about an affair wasn't there and that that played a major part in it. I don't think it did.'*<sup>590</sup> Gary Eaton said that a named individual had been approached to murder Daniel Morgan. He *'reckoned'* that this individual had murdered Daniel Morgan, but he could not *'say 100%'*. He repeatedly told DS Gary Dalby during interview that police should speak to this individual.<sup>591</sup>
- iii. James Cook and two other men had threatened Person G23. However, when asked about this he said that they had bought chips in the takeaway in which Person G23 had worked, that James Cook had looked at Person G23, and that the man from the betting shop had come in and told Person G23 that the man who had looked at Person G23 was James Cook. Person G23 knew the name and had told Gary Eaton

583 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p47, 26 July 2006.

584 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p50, 26 July 2006.

585 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p51, 26 July 2006.

586 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, pp53-64, 26 July 2006.

587 Note and transcript pertaining to pre debrief meeting report three, c11am in respect of Gary Eaton, MPS006748001, p11, 27 July 2006.

588 Note and transcript pertaining to pre debrief meeting report three, c11am in respect of Gary Eaton, MPS006748001, p57, 27 July 2006.

589 Note and transcript pertaining to pre debrief meeting report three, c11am in respect of Gary Eaton, MPS006748001, pp58-61, 27 July 2006.

590 Note and transcript pertaining to pre debrief meeting report three, c11am in respect of Gary Eaton, MPS006748001, p61, 27 July 2006.

591 Note and transcript pertaining to pre debrief meeting report three, c11am in respect of Gary Eaton, MPS006748001, p66-71, 27 July 2006.



when he had telephoned. He said, '[Person G23] *knows me and Jimmy go back and we've done a few things*'. He subsequently said, '[j]ust can't have them people going near [Person G23]'.<sup>592</sup>

341. Apart from the information referred to in paragraph 340 ii above, Gary Eaton did not provide any new information about the murder of Daniel Morgan during this interview.

342. DS Gary Dalby then explained the process further in the presence of Gary Eaton's solicitor, saying that he would introduce Gary Eaton to two other officers from a specialist unit the following day. Gary Eaton was provided with the name of Stuart Sampson from the Crown Prosecution Service, and his role was explained to Gary Eaton.<sup>593</sup>

343. On 28 July 2006, a third meeting occurred between DS Gary Dalby and Gary Eaton. Although there is no recording of this meeting, DS Dalby made notes which stated that Gary Eaton wanted to help the police investigation, although he was very nervous about doing so.<sup>594</sup>

344. On 29 July 2006, DCS David Cook produced a risk assessment which referred to Gary Eaton's mental health problems (see paragraph 153 above).<sup>595</sup> That risk assessment was referred to in the Decision Log kept by D/Supt Barry Phillips (who was the Senior Investigating Officer for the debrief of Gary Eaton).<sup>596</sup> In respect of the psychological risks, the risk assessment stated the following:

*'The subject to whom this assessment refers is currently of a nervous disposition. It is believed that may be through what he is intending to do. His intelligence file suggests that he has had some mental illness, potentially through consumption of alcohol and/or drugs in the past. That being said he appears to be at this time committed to the debrief and ware [sic] of the implications.*

***Likelihood/probability of risk here is IMMEDIATE/HIGH/SIGNIFICANT/MODERATE/  
LOW/NEGLIGIBLE***

*(Delete as appropriate)*

***Impact/severity of risk is***

***HIGH/MEDIUM/LOW***

*(Delete as appropriate)<sup>597</sup>*

345. There was no provision for identification of controls to manage the risk identified in the assessment completed by DCS David Cook. The Panel has seen the latest version of the document from the London Regional Protected Persons Unit, which now contains a section for the identification of controls for risk management.

346. This risk assessment does not appear to have been available to the court at the subsequent pre-trial hearings, which culminated in the prosecution offering no evidence against the Defendants. DS Gary Dalby subsequently told the court that '*he did not think that he had passed on to the de-briefing team what Mr Eaton had said about nearly having had a nervous breakdown and having been in a psychiatric unit*';<sup>598</sup> and former DCS David Cook told the

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592 Note and transcript pertaining to pre debrief meeting report three, c11am in respect of Gary Eaton, MPS006748001, pp73-74, 27 July 2006.

593 Note and transcript pertaining to pre debrief meeting report three, c11am in respect of Gary Eaton, MPS006748001, pp103-105, pp111-112, pp156-158, 27 July 2006.

594 Note of pre debrief meeting, MPS006749001, 28 July 2006.

595 Risk Assessment by DCS David Cook, MPS109471001, pp64-74, 29 July 2006.

596 Decision 4, Decision Log by D/Supt Barry Phillips, AO Debrief, MPS109704001, p94, 20 September 2006.

597 Risk Assessment by DCS David Cook, MPS109471001, p72, 29 July 2006.

598 Ruling of Mr Justice Maddison, MPS107506001, p12, para 51, undated.



court *'that he could not recall telling the debriefing team about this either, and did not know if anyone else had done so'*.<sup>599</sup> Although the debrief team, including D/Supt Barry Phillips, had been alerted by DCS Cook to the fact that Gary Eaton had mental health problems, there is no evidence that DCS Cook had alerted them to his previous hospitalisation, of which he was aware as a consequence of the meeting on 26 July 2006, although he had identified the risk (see paragraph 323 above).

347. When DCS David Cook conducted the risk assessment of 29 July 2006, he identified the possible risk attached to Gary Eaton's *'mental illness'* as *'high'*. Although D/Supt Barry Phillips recorded in his Decision Log that the risk assessment had been shared *'to identify risks and formulate appropriate control measures'*, there is no evidence that there was any consideration of the possible significance of this risk for the forthcoming debrief, or any initial attempt to clarify the situation or to introduce any controls to manage it.

348. Telephone calls occurred on 29 and 30 July 2006 between DCS David Cook and Gary Eaton. On 31 July 2006, 01 and 02 August 2006, Gary Eaton was met by various other police officers.<sup>600</sup> On 31 July 2006, records show that DS Danny Dwyer and another officer met Gary Eaton in connection with his accommodation. It was recorded that, *'[d]uring normal conversation with Mr Eaton is it [sic] clear that he was a man of violence. He is very nervous and is in fear of Jimmy Cook and his associates.'*<sup>601</sup>

349. On 01 August 2006, Gary Eaton had an introductory meeting with a Detective Constable in the presence of his solicitor. The fact that he was present voluntarily and that he could leave at any time was explained to him, as was the process of being debriefed as a prosecution witness. Arrangements were made for the commencement of the debrief.<sup>602</sup>

350. Between 02 and 06 August 2006, there were various texts and telephone calls between DCS David Cook and Gary Eaton, which were recorded as relating to welfare and domestic issues, and as not referring to the investigation.

351. Former DCS David Cook told the Panel that when he initially proposed the need for Gary Eaton to be debriefed, there was concern over the cost and capability to do so, since the Metropolitan Police had no suitable accommodation for an Assisting Offender, and the cost of the James Ward debrief was £90,000 per month.<sup>603</sup> This is confirmed by internal correspondence seen by the Panel.

352. On 07 August 2006, DCS David Cook made three policy decisions in relation to Gary Eaton. He recorded that:

- i. the debrief of a potential witness into the murder of Daniel Morgan would commence on 07 August 2006. He also stated that the debrief would be conducted under the supervision of D/Supt Barry Phillips.<sup>604</sup>

599 Ruling of Mr Justice Maddison, MPS107506001, p13, para 51, undated.

600 DS Gary Dalby, DS Danny Dwyer, and a Detective Constable.

601 Note of pre debrief meeting six in respect of Gary Eaton, MPS006751001, 31 July 2006.

602 Record of Interview, MPS102850001, 1648–1713, 01 August 2006.

603 Record of Panel interview with DCS David Cook, p6, para 27, 04 June 2015.

604 Copy of Decision Log by DCS David Cook, MPS109615001, p5, 07 August 2006 at 1.05 pm.

- ii. *'[s]hould criminal offences be disclosed by this new potential witness during the course of the initial recruitment debrief then he shall be cautioned but not placed under arrest. Instead he shall be informed that the admission of criminality shall be submitted to the [Crown Prosecution Service] for consideration of a prosecution.'*<sup>605</sup>
- iii. *'the supervision and support, including that of accommodation and financial support for meals etc, shall, until a decision is made otherwise by the oversight group, be the responsibility of Operation Abelard and the investigative team'*.<sup>606</sup> He also recorded that the Witness Protection Unit *'do not have the resources available to supervise or accommodate this individual'*.<sup>607</sup>

353. It is accepted that this third decision was made to provide a process through which Gary Eaton's immediate welfare needs could be met. However, it was not consistent with the requirement for a sterile corridor between the witness, Gary Eaton and the debrief team, and the Abelard Two Investigation (see paragraphs 150-151 above).

354. There is also, among the papers available to the Panel, a further unsigned Policy Decision dated 07 August 2006 at 1.00 pm, which states that the decision to proceed with the debrief of Gary Eaton was on the basis that Gary Eaton could *'provide evidence in relation to the commission of the murder by Jimmy Cook at the instigation of Sid FILLERY [...]*',<sup>608</sup> and that the debrief would be done under the supervision of D/Supt Barry Phillips, *'who is not in any way connected to the current investigation team. This will reduce any contamination of the potential witness adding integrity to what is said.'*<sup>609</sup> Former DCS David Cook told the Panel in interview that the appointment of D/Supt Phillips was a decision made after discussion with DAC John Yates.<sup>610</sup>

355. A debrief team was appointed by D/Supt Barry Phillips, the Senior Investigating Officer for the debrief, on 07 August 2006.<sup>611</sup> A Detective Chief Inspector was the Senior Investigating Officer for the Criminal Justice Protection Unit, which was responsible for Gary Eaton's welfare. The Deputy Senior Investigating Officer for that team was a Detective Inspector.<sup>612</sup> The Debrief Manager was a Detective Constable; and DS Anthony Moore together with a Metropolitan Police staff member were the debriefers.<sup>613</sup> On 16 August 2006, due to the Debrief Manager's forthcoming retirement, DS Moore became the Debrief Manager, and the Metropolitan Police staff member and a serving Detective Constable were the debriefers.<sup>614</sup>

356. On 08 August 2006, Gary Eaton entered a recruitment process as a possible Assisting Offender. At the time of the agreement, Gary Eaton was not in custody. Legal advice was sought from Stuart Sampson and Jonathan Rees, barrister, and an operational decision was made to

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605 Copy of Decision Log by DCS David Cook, MPS109615001, p11, 07 August 2006 at 1.20 pm.

606 Copy of Decision Log by DCS David Cook, MPS109615001, p10, 07 August 2006 at 1.50 pm.

607 Copy of Decision Log by DCS David Cook, MPS109615001, p10, 07 August 2006 at 1.50 pm.

608 Decision Log by DCS David Cook, MPS109615001, p6, 07 August 2006.

609 Decision Log by DCS David Cook, MPS109615001, p6, 07 August 2006.

610 Panel interview with former DCS David Cook, Transcript 5, p1, 26 August 2020.

611 Decision 3, Decision Log for D/Supt Barry Phillips, MPS106014001, p43 and p47, date unreadable.

612 Operation Megan Report by D/Supt Fiona McCormack, MPS109687001, p36 para 8.5.2.10, undated.

613 Decision 3, Decision log for D/Supt Barry Phillips, MPS106014001, p43 and p47 date unreadable.

614 Decision 10, Decision log for D/Supt Barry Phillips, MPS106014001, p52 16 August 2006.

debrief him in accordance with the Serious Organised Crime and Police Act 2005, albeit not in custody. It was decided to complete all interviews under caution in the presence of a solicitor representing him.<sup>615</sup>

357. On 09 August 2006, the debrief process was further explained to Gary Eaton, and D/Supt Barry Phillips introduced the debrief officers and explained their role. There was preliminary discussion about what Gary Eaton had told DCS David Cook on 09 and 10 August and about his previous criminality.

358. Former DCS David Cook stated to the Panel that Gary Eaton had had no income and there was then no alternative source of funding, so, as Senior Investigating Officer, he had decided to arrange hotel accommodation and to meet with him on a regular basis to provide funds for food and to look after his welfare until other arrangements were made by the Metropolitan Police. He believed that it was important to have him on hand, and in the London area, until the Metropolitan Police made a decision as to whether to use him as a witness in the investigation.

359. In interview with Commander Simon Foy and Jenny Hopkins from the Crown Prosecution Service in 2011, during a Crown Prosecution Service and Metropolitan Police Review of the Abelard Two Investigation case, former DCS David Cook said that there was a period of 14 days before the decision was made to accept Gary Eaton into a debriefing process and that during that time the Abelard Two Investigation had to look after him. He has stated that he does not recall ever having a discussion with Gary Eaton during these meetings regarding any evidence he was to provide. He simply looked after his welfare.<sup>616</sup>

360. By 10 August 2006, Gary Eaton had admitted, under caution, to having engaged in the supply and distribution of Class A drugs, having supplied firearms for use in robberies, and having engaged in an aggravated burglary. DCS David Cook recorded the decision not to arrest at this time as being due to the potential compromise to Gary Eaton's safety, and to the detrimental effect that an arrest would have had on the possibility of Gary Eaton being prepared to give evidence. D/Supt Barry Phillips also recorded the admissions and attached the decision made by DCS Cook to his Decision Log.<sup>617</sup>

361. On 10 August 2006, DCS David Cook recorded a policy decision that the care and protection of Gary Eaton should be handed over to the Criminal Justice Protection Unit.<sup>618</sup>

362. At various intervals during his debriefing, Gary Eaton was provided with medical services and counselling sessions, because of his physical and mental health difficulties. His mental health and his conduct generally were a cause for concern and resulted in many further difficulties throughout the debrief period (see sections 6.4.1-6.4.8 below).

#### **6.4.1 Issues with witness protection**

363. On 11 August 2006, officers from the Metropolitan Police Criminal Justice Protection Unit, under the leadership of Commander Shaun Sawyer, took responsibility for Gary Eaton's safety and welfare.<sup>619</sup> There were at that stage, therefore, three teams of officers connected to Gary Eaton: DCS David Cook and his investigators; D/Supt Barry Phillips and his debriefers; and the Detective Chief Inspector and his Criminal Justice Protection Unit team.

615 Abelard II, Report to the Crown Prosecution Service, MPS103338001, pp233-234, 13 June 2007.

616 Letter from former DCS David Cook to Baroness Nuala O'Loan, 07 March 2017.

617 Decision 9, Decision log for D/Supt Barry Phillips, MPS106014001, pp48-49, 10 August 2006.

618 Decision Log by DCS David Cook, MPS109615001, p9, 07 August 2006.

619 Operation Megan Report, MPS109687001, pp35-36, paras 8.5.2.9-8.5.2.10, 19 September 2006.

364. Also, on 11 August 2006, Gary Eaton provided details to the Criminal Justice Protection Unit about himself, family who were living with him, and family members who had close contact with him. He provided a medical history but made no mention of psychiatric issues.<sup>620</sup> A formal agreement was entered into setting out the terms on which the Metropolitan Police agreed to take responsibility for the welfare and safety of Gary Eaton and Person G23, his partner.<sup>621</sup>

365. There is no record that the members of the Criminal Justice Protection Unit were provided with the risk assessment which had been created by DCS David Cook on 29 July 2006 (see paragraph 344 above).

366. As stated above, the Senior Investigating Officer for Gary Eaton's debrief was D/Supt Barry Phillips. DI Douglas Clarke, a member of the Abelard Two Investigation, was appointed as the single point of contact between the debrief team and the investigation. There was a requirement for a sterile corridor involving no contact between an Assisting Offender and the investigation, so that it could be shown that there was no attempt to influence or contaminate the evidence given. Gary Eaton and Person G23 were located in a secure location, and the debrief was conducted in a separate secure location.

367. The sterile corridor was explained to Gary Eaton and Person G23 by the Criminal Justice Protection Unit officers. They were told they could not have any contact with DCS David Cook and the Abelard Two Investigation. DCS Cook was instructed that he and his team should have no direct contact with Gary Eaton and Person G23.<sup>622</sup> Despite this, on 15 August 2006 and 18 August 2006, the Criminal Justice Protection Unit recorded that Gary Eaton asked to be allowed to speak to DCS Cook. This was facilitated. On 23 August 2006, Gary Eaton telephoned DCS Cook. The Criminal Justice Protection Unit told him that this was a breach of his agreement.<sup>623</sup>

368. On 08 August 2005, DCS David Cook had reported information received from James Ward alleging corrupt behaviour by D/Supt Barry Phillips, which allegedly led to the imposition of a 'low sentence' on an offender in another prosecution, in which the source in question was not involved.<sup>624</sup> No further information about alleged corruption was supplied by DCS Cook. A disclosure note, produced in 2011, by Nicholas Hilliard QC and Jonathan Rees QC (as he became), said that a report on these allegations was produced by a Detective Constable on 04 May 2006. It noted the report's conclusion stating that '[n]o evidence had been discovered to support allegations that a corrupt relationship existed between Phillips and [...] or that Phillips had any influence on the trial proceedings'.<sup>625</sup>

369. Former DCS David Cook also expressed concerns to the Panel during his interview about the fact that he had been told by DI Douglas Clarke that D/Supt Barry Phillips owned a company which typed the transcripts for the debrief of both James Ward and Gary Eaton.<sup>626</sup> The Panel has since been advised that the typing company in which D/Supt Phillips had an interest had typed up the transcripts of the debrief of Gary Eaton, but not those of James

620 Information extracted from Criminal Justice Protection Unit File, MPS1097170001, p116, 11 August 2006.

621 Operation Megan Report, MPS109687001, p35, para 8.5.2.9, undated.

622 Information extracted from Criminal Justice Protection Unit File MPS1097170001, p116, 11 August 2006.

623 Information extracted from Criminal Justice Protection Unit File, MPS1097170001, p117, 23 August 2006.

624 Intel Reports, MPS107897001, pp18-20, 08 August 2005.

625 Disclosure Note Regina v William Jonathan Rees & others, CLA000179001, p3, para 1. (f), 06 January 2011.

626 Panel interview with former DCS David Cook, Transcript 3, pp22-23, 25 August 2020.

Ward. Former D/Supt Phillips told the Panel that he registered his wife's transcription company with the Metropolitan Police as a business interest and did not have any involvement with the company until his retirement in 2008. Former D/Supt Phillips also stated that his wife had no involvement with the management of Gary Eaton's debrief material, as this was dealt with by a different office.

370. Former DCS David Cook also said that D/Supt Barry Phillips was often '*either off sick, off on annual leave, or off on some other reason*'.<sup>627</sup> He said that he '*had no end of aggravation with Eaton, when Barry should have been there sorting it out. And because Barry wasn't there sorting that out, I ended up sorting it out.*'<sup>628</sup> In January 2021, former D/Supt Phillips denied former DCS Cook's allegation that he was frequently absent. Former D/Supt Phillips stated that he was not absent from duty during the debrief process due to annual leave, and rarely used his annual leave quota in full. There is no evidence that DCS Cook raised this issue with DAC (later AC) John Yates during the debrief of Gary Eaton.

371. DS Anthony Moore reported that, while he had had contact on multiple occasions with D/Supt Barry Phillips and that, for example, D/Supt Phillips had on one occasion recorded receiving a telephone call from Gary Eaton at 3.00 am, he (DS Moore) had had difficulties in accessing D/Supt Phillips on occasions during the debrief.<sup>629</sup>

372. Records show that between 11 August 2006 and 18 October 2006, the Criminal Justice Protection Unit officers experienced major problems relating to both Gary Eaton and Person G23 which had an ongoing effect on the debriefing process.

373. Records show, for example, the following:

- i. Both Gary Eaton and Person G23 continued to contact friends and relatives despite having been told that this might place them at risk as information about them became known.
- ii. Person G23 asked for separate accommodation, complained that Gary Eaton was a bully, very possessive and very aggressive, and said that they were afraid of him.
- iii. Person G23 was then relocated and on 30 August 2006 decided to end their relationship. While Person G23 was with police on this occasion, Gary Eaton telephoned Person G23 at least 20 times and sent abusive texts. Person G23 was relocated by police to an address unknown to Gary Eaton.<sup>630</sup>
- iv. He was informed of this fact by police, but he was not told where Person G23 was.<sup>631</sup> Person G23 had sought assurances that he would not be told about the new location.<sup>632</sup>

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627 Panel interview with former DCS David Cook, Transcript 3, p22, 25 August 2020.

628 Panel interview with former DCS David Cook, Transcript 3, p23, 25 August 2020.

629 Interviewed as part of the Metropolitan Service/Crown Prosecution Service joint review.

630 Information extracted from Criminal Justice Protection Justice File, MPS1097170001, p118, 30 August 2006.

631 Decision log for D/Supt Barry Phillips, MPS106014001, p61, 30 August 2006.

632 Other Document D326, Three Documents: Closing Report for Operation Abelard II, by Gary Dalby, 16 September 2011; CPS Case summary, by Jonathan Rees QC, 27 August 2008; Ruling of Mr Justice Maddison, undated, MPS109597001, p52, 16 September 2011.



374. By 30 August 2006, only three weeks into the debrief process, the Criminal Justice Protection Unit had become very concerned about breaches of the sterile corridor between Gary Eaton, Person G23 and the Abelard Two Investigation team, and other significant difficulties. A list of the issues of concern created for the Criminal Justice Protection Unit by a Detective Constable read as follows:

- i. The Criminal Justice Protection Unit had not received a full threat assessment of either of the parties.
- ii. Both Gary Eaton and Person G23 repeatedly contacted friends/associates without permission throughout the debriefing.
- iii. The sterile corridor was not maintained between the investigation team, Gary Eaton and Person G23 and the Criminal Justice Protection Unit.
- iv. Many decisions made by the Criminal Justice Protection Unit were overruled by the Abelard Two Investigation, which also continued to fund Gary Eaton and Person G23 contrary to the requirement that there be no contact between the Abelard Two Investigation and Gary Eaton and Person G23.
- v. The Criminal Justice Protection Unit had no control over Gary Eaton's actions and the high expenditure of Gary Eaton and Person G23.
- vi. The conditions of Gary Eaton's agreement could not be enforced.
- vii. Gary Eaton was compromising the system and the Criminal Justice Protection Unit officers and his own safety.<sup>633,634</sup>

375. Gary Eaton had been asked to surrender any phones or sim cards in his possession by those responsible for the debrief, but the Criminal Justice Protection Unit officers knew that he had an additional mobile phone. They suggested that this was provided by the Abelard Two Investigation, although this was denied by the investigation.<sup>635</sup>

376. Person G23 subsequently returned to live with Gary Eaton. A further Criminal Justice Protection Unit record of 03 September 2006 stated that '*[t]hese clients are becoming unmanageable. They believe that if they are unhappy with our replies or instructions the [sic] can go directly to the debrief or ops [investigation] team to have any unfavourable decision over-ruled. This is proving most difficult in their management. They have also showed they are incapable of managing funds provided. Cash provided is for incidental living expenses, rent and food having so far been provided. They continue to spend these funds immediately, mostly on alcohol and cigarettes and demand more.*'<sup>636</sup> In cross-examination, during the pre-trial hearing at the Old Bailey in 2010, former DCS David Cook accepted that he did over-rule some instructions issued by the Criminal Justice Protection Unit.<sup>637</sup>

377. On 04 September 2006, an internal briefing note was created for the Criminal Justice Protection Unit. It stated that Gary Eaton:

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633 Information extracted from Criminal Justice Protection Unit File, MPS1097170001, p118, 30 August 2006.

634 Ruling of Mr Justice Maddison, MPS107506001, p16, para 70 and pp22-23, para 98, undated.

635 Witness statement of a Detective Constable, MPS079333001, p1, 08 December 2009.

636 Information extracted from Criminal Justice Protection Unit File, MPS109717001, p119, 03 September 2006.

637 Ruling of Mr Justice Maddison, MPS107506001, p16, para 70, undated.

- i. *'has memorised the mobile telephone number of the SIO [Senior Investigating Officer] and is/has been in direct contact without going through his CJPU [Criminal Justice Protection Unit] handlers.*
- ii. *has been in telephone contact with friends/associates.*
- iii. *was provided adequate accommodation and refused to live there.*
- iv. *is receiving preferential treatment/service to keep the debrief process on track. GE's demands and behaviour may lead to allegations of inducement at court.*
- v. *is unable to manage his weekly living expenses.*
- vi. *The continual demands of GE, including regular telephone calls into the early hours, have resulted in significant overtime expenditure and the cancellation of rest days and annual leave. The current resource levels are severely impacting on other cases. The current level of commitment will in the long-term be unsustainable.'*<sup>638</sup>

378. It concluded that the *'behaviour of GE and [Person G23] would ordinarily merit their exclusion from the WPP [Witness Protection Programme]'*.<sup>639</sup> It made various suggestions, the final of which was to *'consider abstracting the CJPU from the protection process, save funding accommodation and living expenses, and allow the SIO [Senior Investigating Officer] and SIO de-brief team to manage the risks'*.<sup>640</sup>

379. Analysis of the Schedule of Contact between the Criminal Justice Protection Unit and Gary Eaton and Person G23 shows that there had been 110 interactions between 11 August 2006 and 20 September 2006.<sup>641</sup> Of those, 45 calls had been made by Gary Eaton or Person G23 to members of the Criminal Justice Protection Unit including, for example, on 01 September 2006 when Person G23 *'rang several times through the day with drunken abusive messages'*, and also *'sent 15 abusive text messages'*.<sup>642</sup> The Schedule also records calls from Gary Eaton or Person G23 at varying times during the day and night, including:

- i. 6.00 am on 18 August 2006
- ii. 2.00 am on 24 August 2006
- iii. 2.45 am on 02 September 2006
- iv. 0.34 am on 17 September 2006
- v. 3.54 am on 20 September 2006
- vi. 4.00 am on 20 September 2006
- vii. 4.47 am on 20 September 2006.

<sup>638</sup> Internal Criminal Justice Protection Unit briefing paper, MPS1097170001, pp122-123, 04 September 2006.

<sup>639</sup> Internal Criminal Justice Protection Unit briefing paper, MPS1097170001, p123, 04 September 2006.

<sup>640</sup> Internal Criminal Justice Protection Unit briefing paper, MPS1097170001, p123, 04 September 2006.

<sup>641</sup> Schedule of contact with Gary Eaton, MPS006763001, pp23-26, various dates.

<sup>642</sup> Schedule of contact with Gary Eaton, MPS006763001, p25, 01 September 2006.

380. By 19 September 2006, Gary Eaton had twice disclosed the location in which he was being debriefed to a third party. There were ongoing problems in relation to Person G23, and DCS David Cook had decided, against the immediate advice of the Detective Chief Inspector leading the Criminal Justice Protection Unit, that members of DCS Cook's investigation team should facilitate Person G23 in visiting their family. He recorded that he did so because '*[w]ithout taking efforts to resolve the personal issue that [Person G23] has [...] then the potential exists that the debrief may not continue*'.<sup>643</sup>

381. On 19 September 2006, the Detective Chief Inspector leading the Criminal Justice Protection Unit recorded that he was not prepared to continue to be responsible for Gary Eaton and Person G23 and that responsibility should pass to DCS David Cook.<sup>644</sup> He recorded that '*their behaviour would ordinarily merit their exclusion several times*'.<sup>645</sup> However, he also recorded that at the subsequent meeting, he was directed to continue, despite his grave concerns about the case and his inability to control and protect the witnesses.<sup>646</sup>

382. On 20 September 2006 at 7.30 am, a meeting took place to discuss the difficulties and challenges presented by Gary Eaton, which was attended by DCS David Cook, T/DCI Noel Beswick, D/Supt Barry Phillips and two officers from the Criminal Justice Protection Unit. The minutes of this meeting were not available to the Panel, which has relied on Mr Justice Maddison's account of the meeting, as described in his judgment on Gary Eaton.<sup>647</sup>

383. The Detective Constable from the Criminal Justice Protection Unit had produced a further list of concerns for this meeting about the conduct of the debrief of Gary Eaton which included all the matters raised on 30 August 2006 and additional issues.<sup>648</sup> The list of concerns<sup>649</sup> can be summarised as follows:

- i. There was no full threat assessment for any of the parties involved;
- ii. There was repeated unauthorised contact with friends/associates compromising their locations;
- iii. There was direct unauthorised contact with DCS Cook;
- iv. There were breaches of the sterile corridor between the Criminal Justice Protection Unit, Gary Eaton and Person G23, the investigation and debriefing teams;
- v. Decisions of the Criminal Justice Protection Unit were overruled by the debriefers, and the Abelard Two Investigation seemed to be jointly funding Gary Eaton and Person G23;
- vi. Gary Eaton had been provided with adequate accommodation and refused to live there;
- vii. There was no control over how Gary Eaton and Person G23 spent their money. They received £250 a week and all bills were covered by police, yet they repeatedly asked for more money during the week;

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643 Decision 57, Decision Log by DCS David Cook, MPS080344001, 19 September 2006.

644 Decision 46, Operation Megan Reporting of Criminal Justice Protection Unit, MPS109687001, p36, para 8.5.2.15, 19 September 2006.

645 Decision 46, Operation Megan Reporting of Criminal Justice Protection Unit, MPS109687001, p36, para 8.5.2.15, 19 September 2006.

646 Decision 46, Operation Megan Reporting of Criminal Justice Protection Unit, MPS109687001, p36, para 8.5.2.15, 19 September 2006.

647 Ruling of Mr Justice Maddison, MPS107506001, pp24-25, paras 103-105, undated.

648 Witness statement of a Detective Constable, MPS079333001, p1, 08 December 2009.

649 Ruling of Mr Justice Maddison, MPS107506001, pp22-23, para 98, undated.

- viii. It was not possible to enforce the terms of Gary Eaton's debrief, since the Abelard Two Investigation and the debriefers gave into Gary Eaton's demands, thus undermining the Criminal Justice Protection Unit and making any attempt to control Gary Eaton impossible;
  - ix. The breaches of the agreement compromised the safety of the Criminal Justice Protection Unit and the client's safety as well as the debrief system;
  - x. Gary Eaton and Person G23 had arguments, often fuelled by alcohol, which resulted in police being called by neighbours;
  - xi. It was evident that Gary Eaton was playing one party off against another;
  - xii. The problem was compounded by all parties having direct access to Gary Eaton, but limited contact with each other;
  - xiii. Gary Eaton had sent postal orders compromising his location to associates seeking the forwarding of his mail;
  - xiv. Gary Eaton had threatened his handlers with violence.
384. In his judgment, Mr Justice Maddison's account shows that it was agreed at this meeting:
- i. The Criminal Justice Protection Unit would be the single point of contact for Gary Eaton and Person G23;
  - ii. All operational issues would be referred to the debrief team by the Criminal Justice Protection Unit;
  - iii. All welfare issues would be managed by the Criminal Justice Protection Unit;
  - iv. DCS David Cook would retain duty of care responsibility for Gary Eaton and Person G23 '*until the sterile corridor is regained*';
  - v. The Criminal Justice Protection Unit would replace Gary Eaton's and Person G23's phones and would attempt to ensure that Gary Eaton did not have the telephone numbers of DCS Cook or D/Supt Barry Phillips.<sup>650</sup> Gary Eaton and Person G23 were issued with two new mobile phones and the existing phones were removed to try to prevent them from contacting DCS Cook.<sup>651</sup> However DCS Cook's phone number remained the same.

385. The provision at paragraph 384 iv above is meaningless as, if DCS David Cook were to be able to discharge a duty of care towards Gary Eaton at this time, he would have to know what was going on in relation to the debrief and have the authority to deal with it. This would have caused conflict between his role as Senior Investigating Officer for the Abelard Two Investigation and the requirements for debriefing Assisting Offenders which were that a team separate from and managed by someone other than the Senior Investigating Officer had to be in place.

<sup>650</sup> Ruling of Mr Justice Maddison, MPS107506001, p24, para 103, undated.

<sup>651</sup> Ruling of Mr Justice Maddison, MPS107506001, p25, para 106, undated.

386. Over several weeks, while the debrief continued, these decisions were implemented. The Criminal Justice Protection Unit continued to have responsibility for Gary Eaton and Person G23 until 18 October 2006.

387. The description by the Criminal Justice Protection Unit of the conduct of Gary Eaton and Person G23 during the period from 11 August 2006 to 18 October 2006 shows that members of the unit faced very significant difficulties, abuse, physical threats and constant demands for money. This situation alone should have led DCS David Cook to reconsider the use of Gary Eaton as a witness.

In January 2021, former DCS Cook told the Panel that he and the Abelard Two Investigation were not given sight of the document about Gary Eaton prepared by the Criminal Justice Protection Unit, and although he was told that Gary Eaton was difficult and challenging to manage, he was not told in detail what was later found to be in the files. The evidence shows that DCS Cook was aware of the significant difficulties in managing Gary Eaton. He should have reconsidered the use of Gary Eaton as a witness at this stage.

388. On 18 October 2006, DCS David Cook was contacted by a Detective Inspector from the Criminal Justice Protection Unit with responsibility for Gary Eaton and told that his (the Detective Inspector's) house had been broken into and his secure briefcase, which had details of Gary Eaton and of other cases, had been stolen. Former DCS Cook said in 2017 that an intelligence report detailed the burglary and concerns regarding the relationship the Detective Inspector may have had with people connected to the suspects in the Daniel Morgan murder investigation.<sup>652</sup>

389. On 19 October 2006, discussions were held between DCS David Cook, D/Supt Barry Phillips and the Directorate of Professional Standards Witness Protection Unit. It was agreed that responsibility for Gary Eaton's welfare should pass from the Criminal Justice Protection Unit to the Directorate of Professional Standards Witness Protection Unit, and the debrief location be moved.<sup>653</sup> There was ongoing discussion about unauthorised contact between Gary Eaton and DCS Cook. DCS Cook wrote to the officer from the Witness Protection Unit responsible for the new arrangements to confirm the following:

- i. He would not contact Gary Eaton while the debrief was ongoing;
- ii. Should Gary Eaton attempt to contact him it would be reported to the officer or to D/Supt Phillips;
- iii. Should Gary Eaton contact him on more than two occasions he would change his mobile phone number; and
- iv. Gary Eaton should be told again not to make contact, and informed that if he did so, then DCS Cook's telephone number would be changed.<sup>654</sup>

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652 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p29, 11 July 2017.

653 Decision log for D/Supt Barry Phillips, MPS106014001, p11, 20 September 2006.

654 Decision log for D/Supt Barry Phillips, MPS106014001, p11, 20 September 2006.



390. There were ongoing problems with Gary Eaton who continued to be abusive of police officers and staff whom he encountered, and of Person G23. On 24 October 2006, responsibility for Gary Eaton and Person G23 was handed over by the Criminal Justice Protection Unit to the Directorate of Professional Standards Witness Protection Unit. Gary Eaton was told again that he should not contact DCS David Cook. Despite this, DCS Cook continued to be in frequent contact with Gary Eaton.<sup>655</sup>

391. On 31 October 2006, Gary Eaton completed a document stating that he had not received any treatment for drug or alcohol abuse or depression or any other mental illness and that he had served in the Royal Navy for 14 years.<sup>656</sup> Both these statements were untrue.<sup>657</sup> He also signed a Memorandum of Understanding with the Metropolitan Police which set out his obligation to *'behave in a manner expected from a law-abiding member of the public, and not reveal to any other person that he was being assessed for the witness protection programme'*<sup>658</sup> and the obligations of the Metropolitan Police under the Serious Organised Crime and Police Act 2005.

392. On 31 October 2006, Gary Eaton was asked by the Witness Protection Unit about his family. He said that he had no idea where his father was and that he thought he was living in a named area, but he had not seen him for years.<sup>659</sup>

393. Gary Eaton repeatedly caused damage to property in which he was located.<sup>660</sup> On the night of 09/10 December 2006 police were called to a disturbance at Gary Eaton and Person G23's accommodation.<sup>661</sup>

394. Both Gary Eaton and Person G23 continued to cause difficulties at the accommodation, and on 18 December 2006 Gary Eaton was sent a letter warning him that his conduct was in breach of his obligations under the Memorandum of Understanding which he had signed on 31 October 2006. He was warned that any further breaches might result in him not receiving 'protected' status.<sup>662</sup> On 24 January 2007, Gary Eaton punched a hole in the wall of his accommodation.<sup>663</sup>

395. In addition to this, Gary Eaton again demanded money in excess of the allowance made available to him by police during the debriefing,<sup>664</sup> and records indicate that he and Person G23 were paid in excess of £72,000 for living expenses up to 18 September 2009.<sup>665</sup> In 2010, Gary Eaton alleged that:

- i. DS Anthony Moore had offered improperly to provide him with a name;<sup>666</sup>

655 Ruling of Mr Justice Maddison, MPS107506001, pp25-26, para 111, undated.

656 Redacted copy of extracts from Witness Protection Unit file for Gary Eaton, MPS1097170001, pp80-81, 31 October 2006.

657 Ruling of Mr Justice Maddison, MPS107506001, p6, para 24; and, p9, para 35, undated.

658 This Memorandum of Understanding is not available. Ruling of Mr Justice Maddison, MPS107506001, p27, para 116, undated.

659 Ruling of Mr Justice Maddison, MPS107506001, pp26-27, para 116, undated.

660 Other Document D326, Three Documents: Closing Report for Operation Abelard II, by Gary Dalby, 16 September 2011; CPS Case summary, by Jonathan Rees QC, 27 August 2008; Ruling of Mr Justice Maddison, undated, MPS109597001, p65, para 123, 16 September 2011.

661 Redacted copy of extracts from Witness Protection Unit file for Gary Eaton, MPS1097170001, p11, 10 December 2006.

662 Redacted copy of extracts from Witness Protection Unit file for Gary Eaton, MPS1097170001, pp74-75, 18 December 2006.

663 Redacted copy of extracts from Witness Protection Unit file for Gary Eaton, MPS1097170001, p121, 24 January 2007.

664 Other Document D326, Three Documents: Closing Report for Operation Abelard II, by Gary Dalby, 16 September 2011; CPS Case summary, by Jonathan Rees QC, 27 August 2008. Ruling of Mr Justice Maddison, MPS109597001, undated, p59, para 98, 16 September 2011.

665 Other Document D326, Three Documents: Closing Report for Operation Abelard II, by Gary Dalby, 16 September 2011; CPS Case summary, by Jonathan Rees QC, 27 August 2008; Ruling of Mr Justice Maddison, undated, MPS109597001, p68, para 149, 16 September 2011.

666 Question to DI Anthony Moore re Eaton Debrief, MPS107169001, p3, 20 October 2010.

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- ii. DS Anthony Moore had shown him a face (shown a photograph) at an identification procedure; and
- iii. former DCS David Cook should not have been on the case.

396. The Witness Protection Unit, which was then responsible for Gary Eaton and Person G23, made enquiries into these allegations. In respect of these three allegations, Gary Eaton said that:

- i. *'during a break in his debrief one day one of the debriefing officers, Tony Moore (TM), had suggested that he might jog his memory in respect of the name of a person whom he had been discussing. He immediately rejected the suggestion and the matter was dropped by TM.'*<sup>667</sup> Gary Eaton also said that he subsequently complained about the matter to D/Supt Barry Phillips and that as a result DS Moore was removed from the enquiry a very short time later,<sup>668</sup>
- ii. any discussion about the identification procedure had occurred after the procedure had been completed; and
- iii. former DCS Cook *'used to ring him up and say things but that none of what he had said was inappropriate'*.<sup>669</sup>

397. The Witness Protection Unit informed T/DCI Noel Beswick of their enquiries on 27 August 2010.<sup>670</sup> On the same day, T/DCI Beswick reported to Commander Simon Foy informing him of the Witness Protection Unit enquiry, that there was no record that DS Anthony Moore was removed from the debrief, and there was no mention of the alleged incident in D/Supt Barry Phillips' Decision Log.<sup>671</sup> An investigation into Gary Eaton's alleged complaint was carried out by the Directorate of Professional Standards. A Detective Sergeant produced a report on this investigation addressed to D/Supt Tony Evans. The report recorded that Gary Eaton refused to substantiate the allegation.<sup>672</sup> When asked, in 2010, about the allegations which Gary Eaton had made against him, DI (formerly DS) Moore categorically denied the allegation.<sup>673</sup> It was established that he had worked on the debrief of Gary Eaton until it finished.<sup>674</sup> Former D/Supt Phillips has denied that any complaint was made by Gary Eaton and informed the Panel that he had not removed DS Moore from the debrief.

398. Gary Eaton did not make his complaint against DS Anthony Moore until 2010. Significant difficulties between DS Moore and Gary Eaton can be identified from the material available to the Panel because of Gary Eaton's conduct during the debrief, but, having examined the information, it is clear that DS Moore continued to work on the debrief of Gary Eaton, and there is no evidence of any wrongdoing by DS Moore in relation to the debriefing of Gary Eaton.

667 Witness Protection Unit, Case Note, MPS001357001, p1, 20 May 2010.

668 Witness Protection Unit, Case Note, MPS001357001, p1, 20 May 2010.

669 Witness Protection Unit, Case Note, MPS001357001, p1, 20 May 2010.

670 Memorandum from T/DCI Noel Beswick to Commander Simon Foy, MPS109614001, 27 August 2010.

671 Memorandum from T/DCI Noel Beswick to Commander Simon Foy, MPS109614001, pp1-2, 27 August 2010.

672 Operation Scaup Document 317, MPS109851001, pp8-9, 13 October 2010.

673 Question to DI Anthony Moore re Eaton Debrief, MPS107169001, p4, 20 October 2010.

674 R v Rees and Others Further extracts from Witness Protection Unit files for Gary Eaton, MPS001355001, p2, undated.

### 6.4.2 Gary Eaton's initial evidence

399. As explained previously, Gary Eaton was debriefed over a period of months, during which he expanded upon the specific initial information which he had given. The initial information was that regarding the murder of Daniel Morgan:

- i. *'James COOK was there'*.<sup>675</sup>
- ii. DS Sidney Fillery *'set it up'*.<sup>676</sup>
- iii. He had been asked to do the job himself and was offered *'Fifty grand cash'*. He refused outright. The money was to come from *'Sid's side'* through James Cook.<sup>677</sup>
- iv. James Cook had told him *'that Sid wanted the job done'*.<sup>678</sup>
- v. Daniel Morgan was murdered because *'he got wind of the other's dealings. Sid FILLERY and Jonathan REES had a lot of other things going on in the partnership.'*<sup>679</sup>
- vi. He did not think that Jonathan Rees *'had any involvement in the actual murder [...]. He was well aware of it. He did have involvement in that side of it. I'm ninety nine per cent sure he did.'*<sup>680</sup> Later he said *'see Jonathan, I won't mention him because he doesn't really come into it does he?'*<sup>681</sup> Gary Eaton said on two occasions at this first meeting that he did not think that Jonathan Rees had a role in the murder.<sup>682</sup>
- vii. He did not know who committed the murder.<sup>683</sup>

400. Witnesses do not always tell the whole story at the first encounter with the police. On occasion, they need time to gain either trust in the police or the courage to tell what they know. It is therefore accepted by the Panel that evidence may emerge slowly over a period of time. However, it is significant that the chronology of Gary Eaton's evidence was such that suspicions began to emerge as to his credibility as a witness. As shown below, very rapidly concerns grew about ongoing contact between Gary Eaton and DCS David Cook, and the development of his evidence.

### 6.4.3 The development of Gary Eaton's evidence

401. On 16 August 2006, after several interviews, it was recorded that the debrief was suspended as Gary Eaton had said that he wanted to instruct a different solicitor.<sup>684</sup> He was examined by a doctor who recommended that he remain on his current medication and said that he was healthy apart from conditions which had been dealt with previously. Records demonstrate that there continued to be significant difficulties in establishing the arrangements for the debrief, and in enforcing the sterile corridor between Gary Eaton and the Abelard Two Investigation.<sup>685</sup>

675 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, pp5-6, 26 July 2006.

676 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p17, 26 July 2006.

677 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p33, 26 July 2006.

678 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p33, 26 July 2006.

679 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, pp31-32, 26 July 2006.

680 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p36, 26 July 2006.

681 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p49, 26 July 2006.

682 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p36 and p49, 26 July 2006.

683 Note and transcript pertained to pre debrief meeting report one in respect of Gary Eaton, MPS006746001, p47, 26 July 2006.

684 Full schedule of contact with Gary Eaton by investigating team and others, MPS006763001, p8 16 August 2006.

685 Decision 13, Decision log for D/Supt Barry Phillips, MPS106014001, pp55-56, Date unreadable.

402. On 17 August 2006, the Decision Log maintained by the debrief team recorded that any contact with or from Gary Eaton was to be dealt with by the Criminal Justice Protection Unit.<sup>686</sup> A further decision was recorded on 24 August 2006 to tell Gary Eaton that he should not contact DCS David Cook. It stated, '*he has memorised the SIO's number and has a tendency to contact the SIO to "Iron out" any difficulties*'.<sup>687</sup>

403. There is no record of any further debriefing until 29 August 2006.<sup>688</sup>

404. On 28 August 2006, DCS David Cook was in telephone contact with Gary Eaton<sup>689</sup> for 9 minutes 22 seconds.

405. On 29 August 2006, Gary Eaton was debriefed in the presence of his new solicitor.<sup>690</sup> DCS David Cook telephoned him at 10.53 pm and again at 10.56 pm, a call which lasted 21 minutes 14 seconds.<sup>691</sup>

406. On 30 August 2006, D/Supt Barry Phillips recorded a decision in his Policy File to '*maintain a separate log of telephone calls and contact for [Gary Eaton]*'.<sup>692</sup> His reasons for this decision included the fact that Gary Eaton had been told of '*the need for sterile corridors and not [to] deal with DCS Cook and any welfare issues should be notified to the CJPU to manage*'.<sup>693</sup>

407. Analysis of the evidence demonstrates a disturbing chronology of the contacts, in so far as they are known, between DCS David Cook and Gary Eaton and the development of Gary Eaton's account of what he knew about Daniel Morgan's murder. DCS Cook, when questioned, responded that the calls were for welfare purposes.

408. Gary Eaton was also debriefed on 31 August 2006, and again on 01 September 2006 when he provided three pieces of new information, as follows:

- i. He had been at the murder scene;
- ii. He knew that James Cook was the driver;
- iii. He saw James Cook driving away from the murder scene.<sup>694</sup>

409. This was the first occasion on which Gary Eaton had said that he had been present at the murder scene. Previously he had said only that he had been told about it by James Cook. However, at this stage he had still made no disclosure about knowing anything about '*the brothers*'.

686 Decision 18, Criminal Justice Protection Unit Decision Log MPS109687001, p.36, 17 August 2006.

687 Decision 26, Criminal Justice Protection Unit Decision Log MPS109687001, p.36, 24 August 2006.

688 Full schedule of contact with Gary Eaton by investigating team and others, MPS006763001, p8, 29 August 2006.

689 Ruling of Mr Justice Maddison, MPS107506001, p15, paras 67-68, undated.

690 Record of debrief interview of Gary Eaton, MPS109041001, p74, 29 August 2006.

691 Ruling of Mr Justice Maddison, MPS107506001, p15, para 68, undated.

692 Decision 13, Decision log for D/Supt Barry Phillips, MPS106014001, p55, 30 August 2006.

693 Decision 13, Decision log for D/Supt Barry Phillips, MPS106014001, pp55-56, 30 August 2006.

694 Record of interview of Gary Eaton, MPS102867001, pp3-6, 1130 – 1134, 01 September 2006.

410. On the evening of 01 September 2006, DCS David Cook telephoned Gary Eaton twice, on the second occasion for 33 minutes and 28 seconds. He then telephoned him again the following morning for 12 minutes and 42 seconds. Further telephone/text contact between DCS Cook and Gary Eaton took place on 02 and 04 September 2006.<sup>695</sup>

411. In the minutes of the Oversight Group meeting on 04 September 2006 it was reported that Gary Eaton:

- i. was still negotiating about entering into an agreement under the Serious Organised Crime and Police Act 2005 and was not adhering to the requests of the Criminal Justice Protection Unit, and that there had been problems with Person G23 who '*distracts him*'; and
- ii. had been telephoning DCS David Cook regularly.<sup>696</sup>

412. It is not clear if the internal briefing note, created for the Criminal Justice Protection Unit on 04 September 2006, was made known to the Oversight Group (see paragraphs 377-378 above). The minutes of the Oversight Group meeting do not indicate the full extent of the problems with Gary Eaton and Person G23, as disclosed in the internal briefing note.

413. It is recorded that Commander Shaun Sawyer stated at this meeting that '*there must been [sic] no misunderstanding with the CPS [Crown Prosecution Service] and there needs [sic] to be records of decisions. There is compromise and risks in relation to [Gary Eaton] in that [Person G23] and solicitor know his address and that the CJPU [Criminal Justice Protection Unit] should be divorced from the investigation team and manage the risks.*'<sup>697</sup>

414. No decision was made as to any action which might be taken to address the situation.

415. DAC John Yates, Commander David Johnston and Commander Shaun Sawyer were reported to be concerned about the calls made to DCS David Cook. There is no record that DCS Cook told the meeting that he had also been contacting Gary Eaton.

416. DCS David Cook knew that he should not be in contact with Gary Eaton. The lengthy telephone calls he made to Gary Eaton were in clear breach of all the rules and DCS Cook should have known, even at that stage, that his actions would compromise the integrity of the evidence which the witness might provide. The fact that when challenged, DCS Cook did not reveal that, in addition to Gary Eaton telephoning him, he was contacting Gary Eaton, is indicative of his understanding of what he was doing.

417. DS Anthony Moore's note of events on 05 September 2006 record that Gary Eaton arrived for the debrief at 9.45 am and consulted his solicitor. At 10.55 am when DS Moore brought coffee and cigarettes, it was noted that Gary Eaton '*has broken down and remains in bedroom*'.<sup>698</sup>

695 'Operation Megan Timeline of Events relevant to Mr Gary EATON's involvement as a SOCPA witness,' MPS109704001, p232, undated.

696 Minutes of Operation Abelard Oversight Group Meeting, MPS109471001, p43, 04 September 2006.

697 Minutes of Operation Abelard Oversight Group Meeting, MPS109471001, p43, 04 September 2006.

698 Schedule of contact with Gary Eaton, MPS006763001, p9, 26 November 2007.



418. Despite having been told not to contact Gary Eaton, DCS David Cook sent Gary Eaton a text at 11.25 am. DCS Cook made no note of the text and did not retain it on his mobile phone. When asked about it during a pre-trial hearing on 08 December 2009, he could not remember what it was about.<sup>699</sup>

419. Gary Eaton stayed in the room in consultation with his solicitor, and at 12.20 pm his solicitor emerged and advised DS Anthony Moore that Gary Eaton did not wish to continue the debrief that day. The solicitor produced a handwritten note which was signed by Gary Eaton. This was very significant. The note read:

*'It is the 5th September 2006, the time is 11.57am.*

*With regard to the murder enquiry I wish to disclose that "the brothers" are involved.*

*I do not wish today to go into any more details as I feel very unwell and traumatised.  
I will need further reassurance with regard to the safety of my family & those I love.*

*I understand that my solicitor [...] will hand this signed statement which is the truth, to Tony Moore.*

*I do not feel fit enough to be interviewed on tape about this today.'*<sup>700</sup>

420. Former DCS David Cook was asked in interview by the Panel about his multiple contacts with Gary Eaton at this time. He responded that all the telephone calls were about 'his [Gary Eaton's] domestics'.<sup>701</sup> He was asked to talk about that day (05 September 2006) but declined to do so.<sup>702</sup>

421. When Gary Eaton had previously been asked by DCS David Cook to tell him about 'the brothers' (see paragraphs 315-316 above) he had indicated that he did not know to whom DCS Cook was referring. He had said that he knew only about James Cook. However, after multiple telephone contacts on 01, 02 and 04 September 2006, and after receiving the text from DCS Cook on 05 September 2006, when he was in a state of significant distress, he produced this single piece of information: 'I wish to disclose that "the brothers" are involved.' The timing of this reference to 'the brothers' is therefore suspicious.

422. At 1.30 pm on 05 September 2006, DCS David Cook recorded his further decision not to charge Gary Eaton at that time with the crimes which he had admitted to during the debriefing. He stated: '[Gary Eaton] is cautioned before interview, PACE [Police and Criminal Evidence Act 1984] is fully complied with and therefore his account is admissible as evidence it has not been obtained unfairly.'<sup>703</sup>

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699 Pre-trial hearing transcript, pp53-59, 08 December 2009.

700 Handwritten statement of Gary Eaton, MPS109039001, p204, 05 September 2006.

701 Panel interview with former DCS David Cook, Transcript 5, p17, 26 August 2020.

702 Panel interview with former DCS David Cook, Transcript 5, p16, 26 August 2020.

703 Decision 52, Decision Log by DCS Cook, MPS080338001, p2, 05 September 2006.

423. At 6.30 pm on 05 September 2006, at the request of DCS David Cook, through D/Supt Barry Phillips, a welfare meeting was held between Gary Eaton, his solicitor, DCS Cook and DS Anthony Moore to reassure Gary Eaton that police were doing all they could to protect him and his family. DS Moore's note of the meeting recorded that, *'DCS Cook repeats that he does Not intend to arrest<sup>704</sup> [Gary Eaton] at the moment But reminds him that this is under Constant review and it is not any Inducement for continuing with the process'<sup>705</sup>.*

424. Although the purpose of the meeting and what happened at it are recorded, there is no record of why DCS David Cook decided that the meeting was necessary.

425. On the morning of 06 September 2006, because of the difficulties which were being experienced, Gary Eaton was seen by a consultant psychotherapist,<sup>706</sup> who diagnosed him as having severe depression and complex post-traumatic stress disorder.<sup>707</sup> Medication was prescribed, and DS Anthony Moore's notes record that the doctor advised that *'it can take up to two weeks for the drugs to take effect, but if the debriefing team can't wait that long then they should take it easy with him and once the debrief has concluded for the day finish off on light hearted every day subjects'*. The consultant psychotherapist did not recommend that Gary Eaton be accompanied by an appropriate adult but stated that he *'would require intensive psychotherapy after his court case and debriefing'*.<sup>708</sup>

426. On 06 September 2006, between *'16.35–17.15'*, a senior forensic medical examiner<sup>709</sup> assessed Gary Eaton.<sup>710</sup> During the examination, Gary Eaton told him that he had never seen a psychiatrist and did not suffer from mental illness.<sup>711</sup> After examining Gary Eaton, the forensic examiner advised that Gary Eaton required an appropriate adult to assist him during interview.<sup>712</sup> It subsequently emerged that Gary Eaton had seen a psychiatrist before 06 September 2006.

427. Following this, there was consideration of whether to continue the debrief.<sup>713</sup> DS Anthony Moore was instructed to explore the possibilities of obtaining an appropriate adult for the following day and *'at least the next two weeks'*.<sup>714</sup> He called the emergency social services, but *'they could not assist with such a long commitment'*.<sup>715</sup> When Gary Eaton was informed of the recommendation, he *'became very angry and said that he would not be interviewed with anybody else there. He said too many people know about this already. If anyone else turns up he will not speak at all because it will increase the threat against him.'*<sup>716</sup>

428. On 12 September 2006, D/Supt Barry Phillips recorded a decision *'to continue without an appropriate adult and to adapt an opening statement in each interview tape'*. He recorded his reasons as being:

- i. that he had been given information by DS Anthony Moore which *'brings the subject's mental state of mind into question'*;

704 This is a separate decision to DCS David Cook's earlier decision at 1.30 pm on 05 September 2006.

705 Schedule of contact with Gary Eaton, MPS006763001, p9, 26 November 2007.

706 Confidential psychotherapeutic report pertaining to Gary Eaton, MPS006852001, p9, 06 September 2006.

707 Confidential psychotherapeutic report pertaining to Gary Eaton, MPS006852001, pp1-2, 06 September 2006.

708 Confidential psychotherapeutic report on Gary Eaton, MPS006852001, p2, 06 September 2006.

709 A doctor appointed to provide their services to the police. This role includes examining suspects injured in police custody, offering care and forensic assessment of persons in police custody, and interpreting findings for the police.

710 Witness statement of doctor, MPS079071001, p2, 03 August 2008.

711 Witness statement of doctor, MPS079071001, p3, 03 August 2008.

712 Witness statement of doctor, MPS079071001, p4, 03 August 2008.

713 Report, MPS109039001, p202, undated.

714 Memorandum from Detective Constable to Detective Inspector, MPS1097170001, p125, undated.

715 Memorandum from Detective Constable to Detective Inspector, MPS1097170001, p125, undated.

716 Memorandum from Detective Constable to Detective Inspector, MPS1097170001, pp124-125, undated.

- ii. *'he has no documented medical record'*;
- iii. *'[h]e has given no difficulties in his debrief process'*;
- iv. *'[t]o introduce an appropriate adult [...] would cause major concerns and difficulties with regards to safety/security to the individual, debrief team and personnel within premises'*;
- v. *'CJPU have arranged counselling and medication'*; and
- vi. *'[h]e is also represented by a lawyer who is also supportive of not utilising an appropriate adult'*.<sup>717</sup>

429. D/Supt Barry Phillips concluded his rationale by referring again to his overriding concerns as being *'the integrity of the evidence [...] and safety issues for all parties'*.<sup>718</sup> He stated that he would review the decision as the debrief progressed.

430. Gary Eaton was accompanied by his solicitor at the debriefing and the offer of an appropriate adult was repeated before the commencement of each interview and refused on each occasion by Gary Eaton.<sup>719</sup>

431. The reasoning provided by D/Supt Barry Phillips for this decision not to organise an appropriate adult for Gary Eaton's debrief is not consistent with the facts which were available to him at the time:

- i. DCS David Cook's psychological risk assessment of 29 July 2006 in respect of Gary Eaton had stated that *'[h]is intelligence file suggests that he has had some mental illness'*.<sup>720</sup>
- ii. DCS Cook had reported to the Oversight Group meeting on 04 September 2006 that Gary Eaton *'was in negotiation stage and discussions are going on with the CP [Crown Prosecutor] [...] We are experiencing difficulties on both sides.'*<sup>721</sup> He also said that Gary Eaton had not been adhering to the requests of the Criminal Justice Protection Unit, and that there had been problems with Person G23.
- iii. A detailed report had been produced on 04 September 2006 by the Detective Chief Inspector from the Criminal Justice Protection Unit, explaining both the problems with Gary Eaton and Person G23 and the unauthorised contact between DCS Cook and Gary Eaton.<sup>722</sup>
- iv. The consultant psychotherapist had offered an initial diagnosis that Gary Eaton was suffering from depression and complex post-traumatic stress disorder on 06 September 2006.<sup>723</sup>

717 Decision 16, Decision log for D/Supt Barry Phillips, MPS106014001, pp7-9, 12 September 2006.

718 Decision 16, Decision log for D/Supt Barry Phillips, MPS106014001, p9, 12 September 2006.

719 Ruling of Mr Justice Maddison, MPS107506001, p46, para 206, undated.

720 Risk Assessment by DCS David Cook, MPS109471001, p72, 29 July 2006.

721 Minutes of Operation Abelard Oversight Group Meeting, MPS094332001, p13, 04 September 2006.

722 Internal Criminal justice Protection Unit briefing paper, MPS1097170001, pp122-123, 04 September 2006.

723 Confidential psychotherapeutic report pertaining to Gary Eaton, MPS006852001, p1, 06 September 2006.

The decision made, therefore, to continue with the debriefing without further exploration of the medical situation at this stage, was wrong.

432. By 12 September 2006, the relevant Metropolitan Police units were faced with significant problems in relation to Gary Eaton deriving from his medical condition, his perceived abuse of drugs and alcohol, his difficult relationship with Person G23, Person G23's behaviour, as well as ongoing breaches of the terms under which they were being protected by the police. There was also the continuing unauthorised contact by DCS David Cook with Gary Eaton. At this stage there should have been an analysis of the emerging problems, and consideration of the appropriateness of continuing the debrief, by the Oversight Group. This did not happen. No attempt was made until 01 July 2008 to secure Gary Eaton's medical records. The medical records should have been sought earlier.

433. Certain elements of the Code of Practice C (2006) under the Police and Criminal Evidence Act 1984 did not apply to Gary Eaton's situation because he was being debriefed voluntarily. However, Code C stated that '*[a]lthough certain sections of this Code apply specifically to people in custody at police stations, those there voluntarily to assist with an investigation should be treated with no less consideration [...]*'.<sup>724</sup>

434. Code C also stated that:

- i. '*A person whom there are grounds to suspect of an offence, see Note 10A, must be cautioned before any questions about an offence, or further questions if the answers provide the grounds for suspicion, are put to them if either the suspect's answers or silence, (i.e. failure or refusal to answer or answer satisfactorily) may be given in evidence to a court in a prosecution.*'<sup>725</sup>

Gary Eaton was cautioned before interview.

- ii. '*A [...] person who is mentally disordered or otherwise mentally vulnerable must not be interviewed regarding their involvement or suspected involvement in a criminal offence or offences, or asked to provide or sign a written statement under caution or record of interview, in the absence of an appropriate adult unless paragraphs 11.1, 11.18 to 11.20 apply. See Note 11C*'.<sup>726</sup>

These exceptions did not apply to Gary Eaton.

435. In his judgment, on Gary Eaton and his evidence, after the end of the pre-trial hearings, Mr Justice Maddison stated:

<sup>724</sup> Police and Criminal Evidence Act 1984 (PACE), Code C: Code of Practice for the detention, treatment and questioning of persons by Police Officers, guidance point 1A, p5, 2006.

<sup>725</sup> Police and Criminal Evidence Act 1984 (PACE), Code C: Code of Practice for the detention, treatment and questioning of persons by Police Officers, pp31-32, paragraph 10 (a), 10.1, 2006.

<sup>726</sup> Police and Criminal Evidence Act 1984 (PACE), Code C: Code of Practice for the detention, treatment and questioning of persons by Police Officers, p38, paragraph 11 (c), 11.15, 2006.

*'I now consider whether the de-briefing interviews should have ceased when Mr Eaton, having been offered an appropriate adult, refused to have one present. My interpretation of [the Police and Criminal Evidence Act] Code C is that they should have ceased. Para C: 11.15 is expressed in mandatory terms: "...must not be interviewed... in the absence of the appropriate adult...". No exception is provided to cover the situation in which the person being interviewed refuses to have an appropriate adult. Indeed, I can find no reference to such a situation anywhere in Code C.'*<sup>727</sup>

436. Mr Justice Maddison concluded that because Gary Eaton was not in custody or detention, he was not being interviewed regarding his involvement or suspected involvement in Daniel Morgan's murder, and he was not signing a written statement under caution or a record of interview, on a *'strict and literal interpretation'* the requirement under Code C of the Codes of Practice made pursuant to the Police and Criminal Evidence Act 1984, for an appropriate adult to be present during questioning, did not apply.<sup>728</sup>

437. However, Mr Justice Maddison went on to say that such a strict and literal interpretation *'would not meet the justice of this exceptional case'* and that Gary Eaton should have been offered an appropriate adult from the beginning of his debriefing process. Moreover, he concluded that the debriefing process should have stopped when Gary Eaton refused to accept an appropriate adult in September 2006.<sup>729</sup>

438. Gary Eaton was not being debriefed in a police station and was not in custody. There was therefore, at that time, no legal obligation to apply the provisions of the Police and Criminal Evidence Act 1994. However, Mr Justice Maddison, while acknowledging that he was exercising an element of hindsight, stated that in the circumstances, it ought to have been applied in Gary Eaton's case. The Panel notes that judgment but also acknowledges that the police were dealing with an unusual situation for which there were no clear rules. There was some measure of support for the welfare of Gary Eaton in the fact that his solicitor was present throughout the debrief process. Code of Practice C of the Act has since been amended, so that it now applies to all *'persons attending a police station or elsewhere voluntarily'*.<sup>730</sup>

439. On 12 September 2006, Gary Eaton expanded on the account he had given in his statement, by introducing the following information:<sup>731</sup>

- i. He had been asked to go the Golden Lion public house by James Cook with another individual<sup>732</sup> for a meeting in the pub on 10 March 1987;
- ii. A man whose name he could not remember had asked him to have a quick chat in the toilet of the Golden Lion public house. He did so. Later that day he identified this person as one of *'the brothers'*. He did not name the brothers;

<sup>727</sup> Ruling of Mr Justice Maddison, MPS107506001, p47, para 211, undated.

<sup>728</sup> Ruling of Mr Justice Maddison, MPS107506001, p46, para 206, undated.

<sup>729</sup> Ruling of Mr Justice Maddison, MPS107506001, p46, para 206, undated

<sup>730</sup> Police and Criminal Evidence Act 1984 (PACE), Code C: Code of Practice for the detention, treatment and questioning of persons by Police Officers, paragraph 3 (c), p10, 2012.

<sup>731</sup> Record of debrief interview, MPS109040001, pp6-57, 12 September 2006.

<sup>732</sup> Tony Airey.



- iii. He was then asked to go out to the car park to have a quick chat with James Cook;
- iv. In the car park he saw James Cook in a car with another man. He did not indicate that he knew the other man. He also saw Daniel Morgan's body with an axe in his head; and
- v. The man who had asked him to go outside then got into the car and they all drove off.

440. After this debrief session, at 4.20 pm DCS David Cook telephoned Gary Eaton for 7 minutes and 21 seconds. When questioned during the pre-trial hearing, DCS Cook accepted that this was contrary to instructions but said that he did not know what Gary Eaton had said during the debrief earlier that day and they did not discuss the case.<sup>733</sup>

441. On 13 September 2006, it was suggested to Gary Eaton by the debriefers that, to avoid confusion about to which brother he was referring when he used the term 'the brothers', he should refer to the man who had asked to speak to him in the toilet as '*brother one*' and the other brother as '*brother two*'.<sup>734</sup>

442. On 14 September 2006,<sup>735</sup> among other things, Gary Eaton:

- i. Still could not remember the brothers' names, although he said he would recognise them. He provided descriptions of their appearance.<sup>736</sup>
- ii. Said that James Cook had been in the driving seat of the car in the Golden Lion car park on 10 March 1987, and that both brothers were in the car.
- iii. Could not identify the make of the car. He said it was a four-door car, not a hatchback.
- iv. Said that he did not like the colour of the car; he said, '*there was something about green*'.

443. Gary Eaton was debriefed again on 15 September 2006. Among other things, he said the following:

- i. At the time of the murder, James Cook knew Person P9, but that he (Gary Eaton) did not know him.
- ii. On the night of the murder James Cook was very quiet.
- iii. James Cook had an affair with a woman, Person J5, who was likely to have some knowledge of Daniel Morgan's murder.<sup>737</sup>

444. DCS David Cook rang Gary Eaton at 5.43 pm on 15 September 2006 for 6 minutes 55 seconds.<sup>738</sup>

445. No debriefs occurred between 16 and 19 September 2006.

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733 Ruling of Mr Justice Maddison, MPS107506001, p21, para 91, undated.

734 Gary Eaton debrief material, records of interview and handwritten notes, MPS109040001, p160, 13 September 2006.

735 Record of interview, MPS109040001, pp173-268, 14 September 2006.

736 Record of interview, MPS109040001, pp234-235, 14 September 2006.

737 Record of Debrief Interview, MPS102877001, p3, 15 September 2006. Action A566, Trace and identify [Person J5], MPS006129001, p2, 24 November 2006.

738 '*Operation Megan Timeline of Events relevant to Mr Gary EATON's involvement as a SOCPA witness*,' MPS109704001, p234, undated.

446. On 16 September 2006, the records available show that DCS David Cook rang Gary Eaton using his mobile phone four times between 5.09 pm and 8.51 pm: one of these telephone contacts lasted 23 minutes 21 seconds.<sup>739,740</sup>

447. On 19 September 2006, there were at least four telephone calls between DCS David Cook and Gary Eaton.<sup>741</sup> The same day, Gary Eaton's solicitor informed DS Anthony Moore that Gary Eaton was unwell and unable to attend the debrief that day.<sup>742</sup>

#### **6.4.4 Problems relating to external contact with Gary Eaton**

448. On 20 September 2006, DS Anthony Moore was told by Gary Eaton that he had been receiving silent telephone calls. DS Moore informed D/Supt Barry Phillips of what was happening. D/Supt Phillips then made a policy decision *'to make a welfare visit to [Gary Eaton]'* because of his continual telephone calls expressing concerns about the Criminal Justice Protection Unit staff responsible for him, and also because he was aware that Gary Eaton was receiving telephone calls which breached the sterile corridor.<sup>743</sup>

#### **6.4.5 The continuation of Gary Eaton's debrief**

449. The debrief of Gary Eaton continued on 20 September 2006. In addition to what he had disclosed previously, and among other things, he said the following:

- i. DS Sidney Fillery was not in the Golden Lion public house on the night of the murder.
- ii. *'Brother 1'* walked in front of him into the car park to the car. James Cook was in the driving seat. *'Brother 2'* was in the passenger seat and Brother 1 *'got into the rear offside passenger door'*.
- iii. He saw Daniel Morgan lying at right angles to the car with his head adjacent to the rear offside wheel.
- iv. DS Fillery *'orchestrated the murder'*.
- v. *'[T]he contract emanated from Eire because of the threat posed by Morgan's knowledge. Fillery managed the contracted [sic] and would facilitate payment.'*
- vi. James Cook had told him that Daniel Morgan had discovered Jonathan Rees's involvement in drugs, and it was thought that he would probably alert the authorities. Gary Eaton described in some further detail the criminal organisation involved in the importation of drugs from Ireland. He also alleged that DS Fillery provided information on police and HM Customs and Excise activity that might threaten the operation. He said that he (Gary Eaton) and James Cook used two police officers to get information and ensure that *'persons or premises were not being looked at'*.

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739 *'Operation Megan Timeline of Events relevant to Mr Gary EATON's involvement as a SOCPA witness,'* MPS109704001, p234, undated.

740 The phone records are not complete because they only identify mobile telephone calls not office telephone calls (Abuse of Process hearing, p16, 03 December 2009).

741 *'Operation Megan Timeline of Events relevant to Mr Gary EATON's involvement as a SOCPA witness,'* MPS109704001, pp234-235, undated.

742 Schedule of contact with Gary Eaton, MPS006763001, p10, 26 November 2007.

743 Decision Log for D/Supt Barry Phillips, MPS106014001, pp68-72, 20 September 2006.

- vii. That quite soon after the murder, James Cook told him that DS Fillery wanted to see him, that they drove to a public house and that DS Fillery had told Gary Eaton that he had seen what had happened and that the same could happen to him or his family if he did not keep his mouth shut.<sup>744</sup>

450. The debrief continued. Gary Eaton was not debriefed every day, but on 26 September it was noted that Gary Eaton had begun to remember names and events. On 28 September, he was taken to visit various locations connected with the murder investigation and, on 19 October 2006, he named the men he had previously referred to as '*the brothers*' as Glenn and Scott.<sup>745</sup> Gary Eaton had not previously named '*the brothers*'.

451. On 15 November 2006, Gary Eaton was taken to visit the Golden Lion public house. He was asked to describe the scene in the car park on the night of the murder and was video-recorded doing so. Gary Eaton later drew a plan of the car park showing his account of where things happened there on the night of 10 March 1987. That plan was inconsistent with the plan drawn by a police officer on the night of the murder in which the position of cars was identified. Gary Eaton indicated that his car had been parked in a space which, previous plans had shown, had been occupied by another identified car on that night.<sup>746</sup>

452. Phone records show further contact between DCS David Cook and Gary Eaton at 2.58 pm on 22 November 2006 for 13 minutes and 23 seconds and by text message at 6.22 pm that day. On 24 November 2006, Gary Eaton was told by Witness Protection Unit officers not to contact DCS Cook.<sup>747</sup>

453. Gary Eaton texted DCS David Cook on 25 December 2006, which was recorded as '*festive wishes*'.<sup>748</sup> DCS Cook replied on 26 December 2006 and contacted Gary Eaton again on 18 January 2007.<sup>749</sup>

454. On 12 February 2007, Gary Eaton was shown several photographs which included present-day likenesses of Glenn Vian and Garry Vian but failed to identify either of them during the procedure.<sup>750</sup> Later during the same day, he did identify them to the debrief officers, but said that he had not done so earlier because he did not want to make a mistake.

455. On 21 February 2007, having previously said, on 31 October 2006, that his father was living in a named area, Gary Eaton told the debriefing officer that he had lost his father 14 months previously.<sup>751</sup>

456. Gary Eaton signed his agreement to be debriefed under the Serious Organised Crime and Police Act 2005 on 20 April 2007.<sup>752</sup>

457. On 20 April 2007, Gary Eaton made a formal statement recording the following:

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744 Debrief of Gary Eaton, MPS109040001, pp58-61, 20 September 2006.

745 Record of Debrief Interview, MPS102903001, p21, 19 October 2006.

746 Sketch of the Golden Lion public house car park drawn by Gary Eaton, MPS001043001, 27 November 2006.

747 Redacted copy of extracts from Witness Protection Unit file for Gary Eaton, MPS1097170001, p9, 24 November 2006.

748 Schedule of Contact – Operation Abelard II, MPS006763001, p2, 26 November 2007.

749 Ruling of Mr Justice Maddison, MPS107506001, p28, paras 124 and 126, undated; and, Schedule of Contact – Operation Abelard II, MPS006763001, p2, 26 November 2007.

750 Schedule of Contact, Operation Abelard II, MPS006763001, p17, 26 November 2007.

751 '*Operation Megan Timeline of Events relevant to Mr Gary EATON's involvement as a SOCPA witness*,' MPS109704001, p241, undated.

752 S73 Serious Organised Crime and Police Act 2005 agreement. Agreement with co-operating Defendant Gary Eaton, MPS007010001, pp1-10, 20 April 2007.

- i. *'[A]round January 1987 [...] Jimmy [James Cook] asked me if I was interested in disposing of Daniel MORGAN [...] I refused [...] I was told it would pay £50,000.'*<sup>753</sup>
- ii. *'Jimmy said that Sid VILLERY [sic] would be involved in paying the money on behalf of someone else, therefore guaranteeing the payment. This didn't surprise me as much as it should have, as by then I knew Sid VILLERY [sic] was a corrupt officer.'*<sup>754</sup>
- iii. James Cook asked to meet Gary Eaton and his friend, Tony Airey,<sup>755</sup> in the Golden Lion public house on 10 March 1987 (the day of Daniel Morgan's murder).<sup>756</sup> Gary Eaton assumed the meeting was to discuss a potential theft. He was inconsistent in his description of his own and Tony Airey's precise seating position in the Golden Lion. He drew a plan of the bar on 27 November 2006 indicating where Jonathan Rees and Daniel Morgan were standing and where Tony Airey and he were sitting. He had previously drawn a plan on 03 October 2006,<sup>757</sup> but said it was not accurate.
- iv. Jonathan Rees was in the bar at the Golden Lion public house with a woman, whom Gary Eaton thought was his wife or his mistress, when Gary Eaton arrived with Tony Airey. Daniel Morgan arrived a short time later and joined Jonathan Rees and the woman. James Cook then arrived and spoke briefly to Jonathan Rees and Daniel Morgan. Jonathan Rees subsequently left the bar twice, returning on the second occasion with a man, whom Gary Eaton had not seen previously, but who, he thought, was a police officer. Gary Eaton said that he had seen him twice since Daniel Morgan's murder and on each occasion, he was with *'Sid VILLERY [sic]'*.<sup>758</sup> He said that James Cook then left the bar, having said that he would talk to them in a few minutes. He did not return to the bar while Gary Eaton was there.
- v. *'[A] man I believe is called Scott [...] tapped me on the shoulder and asked me if we could have a quick chat in the toilets.'*<sup>759</sup> He said that *'Scott'* had a brother called *'Glen'*.<sup>760</sup> When Gary Eaton went into the toilet, *'Scott'* said that James Cook wished to speak to him in the car park.
- vi. By this stage Daniel Morgan had left the bar. Jonathan Rees was still there with the woman.<sup>761</sup>
- vii. Gary Eaton followed *'Scott'* out of the front door of the Golden Lion public house, and they went together around to the car park at the back. When Gary Eaton got to the car park, he saw James Cook was in the driving seat of a large car, a Ford Granada or Ford Consul. The car's engine was running but the lights were off. He described the car as being of *'dark'* colour.<sup>762</sup> The *'other brother Glen'* was in the passenger seat.<sup>763</sup> Daniel Morgan's body was lying with an axe embedded in his head, close to the car.<sup>764</sup>

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753 Witness statement of Gary Eaton, MPS003950001, p5, unsigned, 20 April 2007.

754 Witness statement of Gary Eaton, MPS003950001, p5, unsigned, 20 April 2007.

755 Tony Airey died in March 2001, MPS067440001.

756 Witness statement of Gary Eaton, MPS003950001, pp6-12, unsigned, 20 April 2007.

757 Record of interview of Gary Eaton, MPS104809001, pp1-7, 1037 – 1119, 03 October 2006.

758 Witness statement of Gary Eaton, MPS003950001, p10, unsigned, 20 April 2007.

759 Witness statement of Gary Eaton, MPS003950001, p10, unsigned, 20 April 2007.

760 Witness statement of Gary Eaton, MPS003950001, p11, unsigned, 20 April 2007.

761 Witness statement of Gary Eaton, MPS003950001, p11, unsigned, 20 April 2007.

762 Witness statement of Gary Eaton, MPS003950001, p11, unsigned, 20 April 2007.

763 Witness statement of Gary Eaton, MPS003950001, p11, unsigned, 20 April 2007.

764 Witness statement of Gary Eaton, MPS003950001, p12, unsigned, 20 April 2007.

- viii. James Cook winked at him and drove off. There was another car in the car park in which a driver was sitting. Gary Eaton marked the location of all three cars on a diagram of the car park which he had previously drawn, and which he appended to his statement.
- ix. He was shocked and that he drove his car out of the car park and left the engine running, while he went back into the Golden Lion and told Tony Airey they were leaving. He then drove Tony Airey back home.
- x. He thought James Cook did this to implicate him should he want to give evidence about their earlier conversation, when James Cook had asked him to carry out the murder, and as a warning of what could happen to him or his family if he thought of giving evidence.
- xi. From 1986, he (Gary Eaton) had been involved in drug trafficking with James Cook, DS Sidney Fillery and Jonathan Rees. Gary Eaton stated that the drugs were sourced in Ireland and distributed through James Cook; that DS Fillery protected the parcels in transit by checking police and customs indices. Gary Eaton believed that Jonathan Rees was assisting to launder the proceeds.
- xii. Gary Eaton stated that, *'about three or four months before the murder, Jimmy told me that Daniel MORGAN had found out about the drugs and the involvement of Jonathan REECE [sic] and Southern Investigations'*<sup>765</sup> and James Cook became involved in plans to kill Daniel Morgan. Gary Eaton stated that *'Jimmy said that Sid VILLERY [sic] would be involved in paying the money on behalf of someone else, therefore guaranteeing the payment'*.<sup>766</sup> Gary Eaton said that *'I believe that the Irish boys organised the murder of Daniel MORGAN because he knew about the drugs importation'*.<sup>767</sup>
- xiii. Gary Eaton stated that *'[a]fter the murder there was a rumour put out that it was over an affair, that was rubbish, a smokescreen. I don't know who started this rumour, but it was to cover up the true reason, him finding out about the drugs.'*<sup>768</sup>
- xiv. He was threatened by DS Fillery afterwards to keep quiet about the murder, or *'I might get the same or my family might get the same'*.<sup>769</sup> Gary Eaton did not state that DS Fillery was present at Daniel Morgan's murder.
- xv. DS Fillery issued this threat because he was higher in the chain of command than Jonathan Rees and James Cook in their dealings with people he called *'the Irish Boys'*.

458. By May 2007, Gary Eaton had confessed to having committed 52 offences.<sup>770</sup> On 04 May 2007, he was charged with multiple offences including conspiracy to murder.<sup>771</sup>

765 Witness statement of Gary Eaton, MPS003950001, p4, unsigned, 20 April 2007.

766 Witness statement of Gary Eaton, MPS003950001, p5, unsigned, 20 April 2007.

767 Witness statement of Gary Eaton, MPS003950001, p17, unsigned, 20 April 2007.

768 Witness statement of Gary Eaton, MPS003950001, p3, unsigned, 20 April 2007.

769 Witness statement of Gary Eaton, MPS003950001, p17, unsigned, 20 April 2007.

770 Notes of Action meeting, MPS071803001, p48, 24 May 2007.

771 Draft copy of Crown Court indictment N757, MPS103864001, p2, undated; Operation Haglight Document D822, 'INFORMATION REPORT/ BRIEFING RE OP HAGLIGHT' MPS102907001, 24 October 2006.



459. On 24 May 2007, Gary Eaton made a further statement about his background in which, among other things, he said that his father had died 14 months previously.<sup>772</sup> This was untrue. After enquiries were made, his father was visited by the police on 17 July 2008.<sup>773</sup>

460. On 15 June 2007, Gary Eaton made three more statements:

- i. In the first, among other things, he dealt with his criminal activity with James Cook, including the illegal collection of guns and ammunition from 1995/1996 until 1999.<sup>774</sup> He implicated former DS Sidney Fillery in drugs crime, and another police officer who, he said, assisted with the provision of information to those involved in the crimes he was describing.<sup>775</sup> He also said that Person J5 was also involved in drugs.<sup>776</sup>
- ii. In the second statement, he stated that '*VILLERY [sic] always seemed to be around whenever we were at Southern Investigations*'.<sup>777</sup> He said that he did not like or trust '*VILLERY [sic] and was never alone with either him or REECE [sic] [...]*'. As far as I was concerned, they were my employers and there was no personal side to the relationship.<sup>778</sup> He said that James Cook told him that '*Jonathan Reece [sic] and Sid VILLERY [sic] were involved in the drugs*' that they were collecting, although he had already suspected this from conversations he overheard.<sup>779</sup> He described how James Cook would phone '*VILLERY [sic]*' when they were en route to collect drugs. He added that he was present on occasions when both James Cook and Jonathan Rees gave '*VILLERY [sic]*' envelopes of cash. He stated that these envelopes were handed over both before and after Daniel Morgan's murder.<sup>780</sup>
- iii. The third statement dealt with his criminality with a named individual whom he described as a '*close friend*', including gun crime and money laundering.<sup>781</sup>

461. By 02 October 2007, Jonathan Rees, barrister, acting for the Crown Prosecution Service, was considering the evidence provided by a number of witnesses and in order to do so, he asked for an account of all contact between members of the investigation team, and the debriefing teams, and with various proposed prosecution witnesses, saying:

*'Plainly, if there were to be a trial, the defence would ask for (and almost certainly be entitled to) details of all contacts that have occurred between members of the various investigation teams and the main witnesses in the case. Because of this, I advise that this information is collated as a matter of urgency, so the prosecution can make an assessment as to whether there is any further material that could be used by the defence to sustain suggestions of, for example, contamination or bad faith. For each witness, I would expect the information to comprise a schedule setting out, in chronological order, the dates of all contacts, the type of contact (e.g. was it face-to-face or by telephone) and the topic that was discussed. The entry on the schedule should, if appropriate, contain a cross-reference to any document, such as a note of the meeting, relating to the contact. For these purposes the investigation team includes*

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772 Witness statement of Gary Eaton, MPS078491001, p1, 24 May 2007.

773 Message from DC Linfoot regarding Gary Eaton's father, MPS008671001, 17 July 2008.

774 Witness statement of Gary Eaton, MPS078494001, pp5-11, 15 June 2007.

775 Witness statement of Gary Eaton, MPS078494001, pp3-4, 15 June 2007.

776 Witness statement of Gary Eaton, MPS078494001, p4, 15 June 2007.

777 Witness statement of Gary Eaton, MPS107953001, p324, 15 June 2007.

778 Witness statement of Gary Eaton, MPS107953001, p324, 15 June 2007.

779 Witness statement of Gary Eaton, MPS107953001, p325, 15 June 2007.

780 Witness statement of Gary Eaton, MPS107953001, p325, 15 June 2007.

781 Witness statement of Gary Eaton, MPS078493001, 15 June 2007.

*the debriefing teams although it may be that their contacts can be conveniently summarised.*<sup>782</sup>

462. In anticipation of the Defence Counsel line of attack as a result of DCS David Cook's 'head start' to James Ward (and invitation to Gary Eaton to give him the names of the 'brothers'), Jonathan Rees, barrister, continued, '*it will be especially important for the schedules to contain as much detail as possible of DCS Cook's contact, including telephone contact, with these witnesses*'.<sup>783</sup> He concluded, '*[f]or my part, I need to be satisfied that, between us, the lawyers have seen all material that has a bearing on the credibility and/or reliability of the current investigation team and the main potential witnesses*'.<sup>784</sup>

463. DCS David Cook prepared a schedule<sup>785</sup> of his interactions with Gary Eaton, which was amended on several occasions, and which finally covered the period from 24 July 2006 to 29 September 2007. This schedule did not include all of the occasions on which DCS Cook had had contact with Gary Eaton.

464. In contravention of the agreed processes, and later of his own specific undertakings on 11 August 2006<sup>786</sup> and 19 October 2006,<sup>787</sup> not to have unauthorised contact with Gary Eaton, DCS David Cook was identified as having had unauthorised contact with him<sup>788</sup> on the following dates:

- i. 17, 23, 24, 28, 29 (twice) August 2006;
- ii. 01 (twice), 02 (three times), 04, 05, 12, 15 (twice), 16 (four times), 19 (four times), 20 (5 times between 3.39 am and 4.09 am) September 2006;
- iii. 14 October 2006;
- iv. 22 November 2006 (twice);
- v. 26 December 2006;
- vi. 18 January 2007;
- vii. 02, 04 and 29 April 2007;
- viii. 12 (twice), 14 and 30 May 2007;
- ix. 06, 25 (twice) and 28 (twice) August 2007; and
- x. 29 September 2007.<sup>789</sup>

782 Crown Prosecution Service Advice Document (2), MPS103621001, p6, para 5, 02 October 2007.

783 Crown Prosecution Service Advice Document (2), MPS103621001, p6, para 5, 02 October 2007.

784 Crown Prosecution Service Advice Document (2), MPS103621001, p7, para 6, 02 October 2007.

785 Full schedule of contact with Gary Eaton by investigating team and others, MPS006763001, p2, 26 November 2007.

786 Folder of material supplied by a Detective Sergeant Op Megan in response to DMIP questions SS513 to SS529 [Q329-345], MPS109704001, p230, 11 August 2006.

787 Folder of material supplied by the Detective Sergeant Op Megan in response to DMIP questions SS513 to SS529 [Q329-345], MPS109704001, p124, 19 October 2006.

788 Full schedule of contact with Gary Eaton by investigating team and others, MPS006763001, p1, 26 November 2007

789 'Operation Megan Timeline of Events relevant to Mr Gary EATON's involvement as a SOCPA witness,' MPS109704001, pp230-246, undated.

465. By October 2007, when Counsel had raised the issue of Abelard Two Investigation contacts with Gary Eaton, the problem of unauthorised contact between Gary Eaton and DCS David Cook was long-established. AC John Yates should have ensured that DCS Cook changed his mobile phone number so that Gary Eaton was incapable of contacting DCS Cook. Gary Eaton's mobile number should also have been changed and efforts should have been made to ensure that DCS Cook did not know the new number. This did not happen, despite the fact that AC Yates had been expressing his concern about contact between Gary Eaton and DCS Cook for over a year.

466. DCS David Cook had given undertakings not to contact Gary Eaton on 11 August 2006 and 19 October 2006 and had breached them. Negotiation was ongoing at this time (between July 2007 and December 2007)<sup>790</sup> to keep DCS Cook as the Senior Investigating Officer as he was to retire as a police officer and had been offered a job at the Serious Organised Crime Agency. Given the unauthorised contact which had taken place, AC John Yates should have appointed a new Senior Investigating Officer.

467. On 09 October 2007, Gary Eaton was again advised not to contact DCS David Cook, and on 19 October 2007 a formal Record of Contact Log was established. It recorded contact by Gary Eaton with DCS Cook and the purpose of that contact on 17 December 2007.<sup>791</sup> DCS Cook recorded that he did not have any discussions about the case with Gary Eaton during this time.<sup>792</sup>

468. By December 2007, Gary Eaton had provided details of his extensive past involvement in criminality, admitting involvement in many further crimes including various thefts, possessing firearms, supplying controlled drugs, money laundering, handling stolen goods, assault and conspiracy to supply Class A drugs, as well as a conspiracy to murder. Gary Eaton implicated at least 23 people in various crimes in which he said he was involved.

469. On 18 December 2007, Gary Eaton made three further statements:

- i. In the first statement, among other things, he described criminality in which he was involved with Tony Airey, and said that he had paid a police officer<sup>793</sup> £500 to get a drink-driving charge against him removed, a further £500 to get a charge against Tony Airey removed, and a further £200 to '*leave Tony alone*'<sup>794</sup> when the officer was dealing with the criminal conduct of Tony Airey. He also described other alleged criminality by this officer and other occasions on which he had paid him for information. Gary Eaton

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790 Emails re DCS David Cook retirement, work at Serious Organised Crime Agency/Metropolitan Police SIO and the agreement reached between parties, MPS109657001, pp1-15, various dates.

791 Record of Contact Log of Gary Eaton, MPS007098001, p1, various dates.

792 Record of Contact Log of Gary Eaton, MPS007098001, p1, various dates.

793 Witness statement of Gary Eaton, MPS107953001, p298, 18 December 2007.

794 Witness statement of Gary Eaton, MPS107953001, p298, 18 December 2007.

concluded this statement by saying that Tony Airey had died of a brain haemorrhage some five years previously and that Tony Airey's wife had also died of a brain haemorrhage some eight years previously.<sup>795</sup>

- ii. In the second statement he talked about his relationship with his godson, about alleged criminality in which his godson had been involved, and his own involvement in some of these matters. He also recorded that he had been asked to murder a named person and had bought a gun, but eventually decided not to kill the man, because he was *'a decent hardworking bloke'*, and threw the gun off Chelsea Bridge into the River Thames.<sup>796</sup>
- iii. In the third statement, he described attending a Metropolitan Police station where he was shown six series of six video shots, each of individuals. He identified four individuals from four of the series. In the last two series of video shots he did not identify anyone. He stated that on the way back in the police car he said that he was frustrated because during the last two parades he had been asked to identify people he had not seen for 16 years, and the videos he had been shown were of *'how they are now. On the fifth parade I was 99% sure that number six was one of the "Brothers", the one I refer to as the quiet one.'*<sup>797</sup> However, he had not identified him because of the 1% doubt he had, *'created by sixteen years of ageing and the changes in his appearance resulting from that ageing'*.<sup>798</sup>

470. On the same date, 18 December 2007, Gary Eaton's debrief concluded. Extensive enquiries were made by the Abelard Two Investigation to verify or discredit the information which Gary Eaton had provided. The police sought to verify Gary Eaton's account that he had been at the Golden Lion public house with Tony Airey on 10 March 1987, and that Tony Airey and his wife were both dead. It was established that Tony Airey had died of a brain haemorrhage on 19 March 2001. However, his wife was not dead, but was established to be very ill and not capable of interview.<sup>799</sup> Police also contacted a friend of Tony Airey's who initially denied knowing him or knowing anything about the murder of Daniel Morgan. She subsequently said that she had known Tony Airey since the 1970s and had known his wife as well. She reiterated that she did not know about the murder of Daniel Morgan and said that Tony Airey had not mentioned it to her.<sup>800</sup> Despite these and further enquiries no further evidence emerged to indicate that Tony Airey had been in the Golden Lion public house with Gary Eaton.

471. This information added further suspicions about the credibility of Gary Eaton and the evidence he had provided, since he had said that Tony Airey's wife was dead, and it had been established that she was not.

795 Witness statement of Gary Eaton, MPS107953001, p300, 18 December 2007.

796 Witness statement of Gary Eaton, MPS078496001, pp4-5, 18 December 2007.

797 Witness statement of Gary Eaton, MPS109052001, p35, 18 December 2007.

798 Witness statement of Gary Eaton, MPS109052001, p35, 18 December 2007.

799 Action A522, Take Interview and take statement of widow of Tony Airey re knowledge of Op Abelard, MPS064289001, pp1-3, 17 October 2006.

800 Action: A998, Visit a friend of Tony Airey, MPS008272001, 16 August 2007.

472. On 30 January 2008, Gary Eaton sent a text to DCS David Cook: *'Dave can you call me make it a welfare call or whatever gary.'*<sup>801</sup> DCS Cook called Gary Eaton back and informed T/DCI Beswick by email that:

*'I spoke to [Gary Eaton] in response to a text regarding a welfare chat. He was apologetic about Monday blaming his legal team for the delay but I refused to enter into discussion about that or apportion blame [...] He re-affirmed his commitment to the ongoing investigation but again I refused to be drawn into discussion [...] No useful information obtained other than his welfare chat.'*<sup>802</sup>

473. On 22 March 2008, Gary Eaton sent DCS David Cook a text wishing him a happy Easter.<sup>803</sup> On 02 April 2008, Gary Eaton sent DCS Cook another text.<sup>804</sup> He was again instructed not to contact DCS Cook. On 04 April 2008, Gary Eaton again sent DCS Cook a text, which is recorded on the contact log and to which records show that DCS Cook did not reply.<sup>805</sup>

474. Former DCS David Cook explained to the Panel in interview that his contact with Gary Eaton was because Gary Eaton had difficulty contacting D/Supt Barry Phillips,<sup>806</sup> and he was afraid something might happen to him because he had been asked to be a witness. He referred to James Cook's knowledge of where Gary Eaton lived, and the fact that there had been a break-in at the house of a Detective Inspector from the Witness Protection Unit responsible for looking after Gary Eaton, and that Gary Eaton had had problems with those responsible for his protection as a witness.<sup>807</sup>

475. The roles of the Criminal Justice Protection Unit and subsequently the Directorate of Professional Standards Witness Protection Unit were obstructed and undermined by the ongoing contact between DCS David Cook and Gary Eaton.

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801 Record of Contact Log of Gary Eaton, MPS103678001, p16, 30 January 2008.

802 Record of Contact Log of Gary Eaton, MPS103678001, p15, 30 January 2008.

803 Record of Contact Log of Gary Eaton, MPS103678001, p19, 22 March 2008.

804 Record of Contact Log of Gary Eaton, MPS103678001, p23, 02 April 2008.

805 Record of Contact Log of Gary Eaton, MPS103678001, p17, 04 April 2008.

806 Panel interview with former DCS David Cook, Transcript 3, pp22-23, 25 August 2020.

807 Panel interview with former DCS David Cook, Transcript 5, pp15-16, 26 August 2020.



476. The Panel accepts that Gary Eaton may well have sought assurances from DCS David Cook. However, there is ample evidence that many calls and texts were initiated not by Gary Eaton but by DCS Cook, whose repeated breaches of the sterile corridor during the period of Gary Eaton's debrief cannot have been inadvertent and must have been deliberate. DCS Cook was an experienced detective, with very good performance appraisals. The Crown Prosecution Service and their lawyers gave very clear advice about the dangers of contamination of the debriefing process as a consequence of contact between DCS Cook and Gary Eaton. However, that advice was not heeded by DCS Cook.

Six months after Counsel had raised the issue of unauthorised contact between Gary Eaton and DCS Cook, and after an agreement had been made that former DCS Cook would continue to be involved in the murder investigation, unauthorised contact was still continuing. Once again, AC John Yates should have instructed former DCS Cook to change his mobile telephone number and should have ensured that Gary Eaton received a new number as well. This did not happen.

477. This contact was a matter which should have been dealt with effectively by AC John Yates, who had refused to change the unusual process through which DCS David Cook reported to him and had not provided for normal line management and oversight of the investigation. Former DCS Cook should have been removed from the investigation.

It was inevitable, given the juxtaposition of the timing of calls and the presentation of new evidence by Gary Eaton about Daniel Morgan's murder, that the debrief process would be regarded as having been potentially corrupted, rendering Gary Eaton's evidence inadmissible. As a consequence, the very expensive and very lengthy process of his debrief was fatally compromised. Ultimately, while DCS Cook's actions were the immediate cause of the exclusion of Gary Eaton's evidence, responsibility also lay with AC John Yates for his failure to oversee properly the management of the investigation.

478. In January 2021, former DCS David Cook responded to the criticisms of his frequent and unauthorised contact with Gary Eaton, rejecting any suggestion that his handling of Gary Eaton was dishonest or lacking in integrity. Although he stated he regretted mistakes he made, he '*never knowingly or intentionally did anything to break the law or to frustrate the interests of justice or to cover up anything [he] had done*'. Former DCS Cook stated that he did not intentionally conceal the extent of his telephone contact with Gary Eaton but accepts that he should have made a note of these calls. With regards to the sterile corridor, former DCS Cook noted that he never received training or guidance in respect of debriefs under the new Serious Organised Crime and Police Act 2005, and that the sterile corridor had no statutory basis, nor was it in the Association of Chief Police Officers' guidance. Former DCS Cook maintains that Gary Eaton was a '*very difficult man to deal with in an even more difficult situation*' which neither he nor the Metropolitan Police was prepared to deal with.

479. On 04 April 2008, pursuant to his admissions about his own criminality during the debrief, Gary Eaton pleaded guilty to 20 offences, including conspiracy to murder, bribing police officers, blackmail, possessing firearms, robberies, burglaries and conspiracies to supply cocaine and cannabis resin. He asked for 31 further offences to be taken into consideration. He was remanded in custody pending sentencing.

480. The day before Gary Eaton pleaded guilty, on 03 April 2008, there was a family risk assessment meeting attended by T/DCI Noel Beswick, a Detective Inspector, a Detective Sergeant and Gary Eaton's two Witness Protection Unit handlers. In advance of the meeting, T/DCI Beswick had prepared a schedule of prosecution witnesses or family or friends of Gary Eaton who might have '*potential safety issues*' when the suspects for the murder of Daniel Morgan were arrested. The list did not include Gary Eaton's father. Mr Justice Maddison stated in his judgment of 25 March 2011 that he accepted T/DCI Beswick's evidence that he believed Gary Eaton's father to be dead.<sup>808</sup>

### 6.4.6 Gary Eaton's evidence about his father

481. The Abelard Two Investigation was, at this time, conducting enquiries seeking corroboration of the content of Gary Eaton's debrief.<sup>809</sup> Gary Eaton had stated on 24 May 2007 that his father was dead (see paragraph 459 above).<sup>810</sup> On 14 February 2008, Gary Eaton had again been asked about his father in preparation for a further family risk assessment, prior to the forthcoming arrests of suspects. It is recorded that Gary Eaton had said that he had '*no contact 8 years – no idea where he is*'.<sup>811</sup>

482. On 17 June 2008, James Cook told members of the Abelard Two Investigation that Gary Eaton's father was not dead.<sup>812</sup> Former T/DCI Noel Beswick, in his statement dated 20 October 2016, stated that he could not '*find any record that this fact was brought to the attention of any supervisors [...]*'.<sup>813</sup> The information was not put onto the HOLMES computer, which would have made it accessible to other members of the Abelard Two Investigation, until 29 July 2008.<sup>814</sup> On 02 or 03 July 2008, the Abelard Two Investigation received information that James Cook's wife had a statement from Gary Eaton's father.<sup>815</sup> Former T/DCI Beswick stated that '*this information was made known to DI Clarke and DCS Cook between 3rd and 7th July 2008*'.<sup>816</sup> Having received this information, police began to investigate whether Gary Eaton's father was in fact still alive.

483. On 08 July 2008, without informing DI (as he now was) Anthony Moore, the Debrief Manager, DI Douglas Clarke asked a Witness Protection Officer to contact Gary Eaton's mother and stepfather to ask whether Gary Eaton's father was still alive, and then to ask Gary Eaton, who was in prison and could not be contacted by telephone, whether his father was still alive.

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808 Ruling of Mr Justice Maddison, MPS107506001, p49, para 221, undated.

809 Statement of DI Douglas Clarke, MPS107945001, p400, 18 May 2008.

810 Witness statement of Gary Eaton, MPS078491001, p1, 24 May 2007.

811 Memo to Commander Stuart Osborne from Witness Protection Unit Handler giving details of contacts with Gary Eaton about his father, MPS107945001, p398, undated.

812 Record of interview, MPS006928001, pp33-35, 17 June 2008.

813 Witness statement of Noel Beswick, MPS109748001, p50, paragraph 183, 20 October 2016

814 Record of interview, MPS006928001, handwriting at p33/375 states '*P.375 Y2AC (Y2AC was an Abelard II HOLMES reference for the interview) Typed and on system 29 July 2008.*'

815 Witness statement of a Detective Sergeant, MPS003709001, 05 November 2009.

816 Witness statement of former T/DCI Noel Beswick, MPS109748001, p50, paragraph 184, 20 October 2016.

484. DI Douglas Clarke should not have asked the Witness Protection officer to seek information from Gary Eaton. This constituted a breach of the sterile corridor. DI Clarke should, instead, have asked the debrief officers to find out Gary Eaton's response in a formal interview setting. This would have preserved the integrity of the debrief process, and indeed this is what Jonathan Rees, barrister, instructed should happen, when he became aware of the facts. In 2020, DI Clarke told the Panel that, while he accepted the criticism that his contact breached the sterile corridor, he was acting upon orders from DCS David Cook.

485. On 17 July 2008, DC Caroline Linfoot reported that Gary Eaton's father was alive and well and provided his contact details and information about the relationship between father and son.<sup>817</sup> It was therefore realised that Gary Eaton's witness statement of 24 May 2007 was untrue in this respect, which had the capacity to undermine further his credibility as a witness.

486. DI Douglas Clarke was told *'that Gary EATON's father was alive and well but that due to a dispute, which caused a rife [sic] between them Eaton no longer wanted any contact with him'*.<sup>818</sup> Gary Eaton had advised police to ask his sister for the last known address of father. He had not expressed any concerns about his father being contacted by police.<sup>819</sup>

487. In early September 2008, having been informed about the matter, Counsel instructed that Gary Eaton should be interviewed about the content of his statement of 24 May 2007.

488. On 29 September 2008, DI Douglas Clarke spoke to DI Anthony Moore and explained that he wanted further questions to be put to Gary Eaton *'to give clear transparency to our earlier contact with Eaton via his WPU [Witness Protection Unit] handlers. DI Moore suggested that our actions were a blatant attempt to undermine the integrity of the debrief process. I made it very clear that before any action was taken on the part of Eaton, that guidance had been sort [sic] from the SIO [Senior Investigating Officer] and /or the CPS [Crown Prosecution Service], which was supplemented with my experience as a trained MPS [Metropolitan Police Service] debriefer.'*<sup>820</sup>

489. DI Anthony Moore later reported that he had challenged DI Douglas Clarke about the unauthorised contact with Gary Eaton via his Witness Protection Officer and DI Clarke had responded that he had been acting on instructions *'by a higher authority'*.

490. On 30 September 2008, Gary Eaton was asked by his debriefers about his father. He said that he had already been asked about his father by his handler and that his father *'was dead to him'*.<sup>821</sup>

491. On 02 October 2008, the debrief officer reported to DI Anthony Moore that he was *'very concerned about what had happened outside the debrief process and that [Gary Eaton] may have been given assistance from within the enquiry team'*.<sup>822</sup>

817 Message M1174 re [...] Gary Eaton's father, MPS074132001, pp1-3, 17 July 2008.

818 Witness statement of DI Douglas Clarke, MPS006787001, p1, 18 May 2009.

819 Memorandum from Witness Protection Unit Handler giving details of contacts with Gary Eaton about his father, MPS107945001, p398.

820 Witness statement of DI Douglas Clarke, MPS006787001, p2, 18 May 2009.

821 Report by DI Anthony Moore entitled Operation Abelard, MPS107945001, p395, undated.

822 Report by DI Anthony Moore entitled Operation Abelard, MPS107945001, p396, undated.

492. DI Anthony Moore recorded his concerns in an undated written report stating that Gary Eaton's evidence had been '*contaminated with material from outside the debrief*'<sup>823</sup> and that there had been '*inconsistencies in his accounts throughout the process*'.<sup>824</sup> He reported that the approach to Gary Eaton on 08 July 2008, of which he had been unaware, had '*undermined the integrity*' of the process.<sup>825</sup> He concluded that '*[o]n the facts available, it would appear that [Gary Eaton] has had information given to him by his witness protection unit officer acting on instruction given by DI CLARKE[.] In turn it appears DI CLARKE has been acting on instruction of more senior officers unknown.*'<sup>826</sup> DI Moore recorded that DI Clarke told him that they had already asked Gary Eaton the question regarding the status of his father '*and he will say that his father was not dead but dead to him*'.<sup>827</sup>

493. DI Anthony Moore informed D/Supt Barry Phillips. DI Moore then telephoned DS Gary Dalby of the Abelard Two Investigation and told him that '*Eaton had apparently been asked the question relating to his father by the WPU [Witness Protection Unit] prior to the debrief at the request of Doug Clarke and this was outside the process*'. DS Dalby said, '*I told him that this was my first knowledge of the matter and was sure there was a good reason [...]*'.<sup>828</sup>

494. Commander Stuart Osborne of the Directorate of Professional Standards was informed that day about the problem and he reviewed what had happened. In a file note dated 08 October 2008, Commander Osborne recorded that he had considered DI Anthony Moore's report, had considered the approach made by DI Douglas Clarke to Gary Eaton's Witness Protection Officer, and had spoken to the Witness Protection Officer's supervisor, who relayed the full explanation of the facts after consulting the Witness Protection Officer. He concluded that the activities of the Witness Protection Officer appeared to be '*justified and appropriate*', and that '*the activities were legitimate and reasonable for purposes of protection and that all contact had been recorded and accounted for*'.<sup>829</sup>

495. On 04 November 2008, former DCS David Cook made a statement about the events which followed his being informed, '*on or about the 7th or 8th July 2008*', of the fact that Gary Eaton's father was still alive and that this contradicted information given by Gary Eaton during his debrief process. He recorded that,

*'I needed to satisfy not only myself but also the prosecuting authorities about this ambiguity that had arisen. By that I mean I had to satisfy myself as to the truthfulness of Gary Eaton in relation to this and other matters. The debrief by this time had been completed and Eaton was incarcerated within an unknown prison. Our only point of contact was through the Witness Protection Unit and the lead for that was Detective Inspector Doug Clarke. I had no means of contact [sic] either Eaton direct or his WPU [Witness Protection Unit] Officer. I therefore tasked/instructed Doug Clarke to establish through the WPU what the situation was with Eaton's father. My primary consideration was that of the integrity of his evidence and the prosecution although naturally there were also some concerns as to the safety of Eaton's wider family. The issue of the information about the father was communicated to the Prosecuting Authorities.'*<sup>830</sup>

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823 Report by DI Anthony Moore entitled Operation Abelard, MPS107945001, p392, undated.

824 Report by DI Anthony Moore entitled Operation Abelard, MPS107945001, p393, undated.

825 Report by DI Anthony Moore entitled Operation Abelard, MPS107945001, p393, undated.

826 Report by DI Anthony Moore entitled Operation Abelard, MPS107945001, p396, undated.

827 Report by DI Anthony Moore, MPS107945001, p393, para 11, undated.

828 Observations on the report by DI Anthony Moore MPS006793001, p1, 08 October 2008.

829 File note by Commander Stuart Osborne re Gary Eaton, MPS107945001, p402, 08 October 2008.

830 Witness statement of former DCS David Cook, MPS078478001, pp1-2, 04 November 2009.

496. Defence Counsel subsequently became aware of the allegation that DI Douglas Clarke had alerted Gary Eaton that he had been caught lying in relation to whether his father was still alive. During the later pre-trial hearing, the Defence, having received copies of this documentation, and after DI Clarke gave evidence in court,<sup>831</sup> agreed with the Prosecution that the ‘*higher authority*’ referred to by DI Clarke in his evidence was former DCS David Cook.<sup>832</sup>

497. In his judgment, Mr Justice Maddison, in response to the representations made by Defence Counsel, considered whether Gary Eaton ‘*was tipped off*’ that he had been found to have lied about his father’s death.<sup>833</sup> He concluded that ‘*[t]he purpose of the approach to Mr Eaton in my view was in part at least to tip him off that he had been caught out lying about his father*’.<sup>834</sup>

498. Mr Justice Maddison also said that ‘*my finding that Mr Eaton was tipped off that he had been caught lying about his father’s death and thus given the chance to think of an explanation would not by itself have led me to exclude his evidence. [...] he gave an explanation almost immediately and without prompting. The lie about his father did not affect the subject-matter of his anticipated evidence at trial itself. It did of course go to his credibility [...]*’.<sup>835</sup>

#### 6.4.7 Further efforts made to corroborate Gary Eaton’s evidence

499. As information about alleged criminality was received by the Abelard Two Investigation from the debrief team, attempts were made to corroborate what Gary Eaton had said. This was a lengthy and resource-intensive exercise.

500. On 08 August 2006, Gary Eaton was reported by DS Gary Dalby to have disclosed a conspiracy by him unrelated to the murder of Daniel Morgan,<sup>836</sup> Person A13 and her new partner who was later identified as Person K17, to murder Person A13’s former husband.<sup>837</sup> He had taken cash from Person A13 and done nothing further about the matter. The police were completely unaware of this crime before Gary Eaton disclosed it.<sup>838</sup>

501. On 09 August 2006, arrangements had been made for any alleged or suspected criminality which was not relevant to the murder of Daniel Morgan to be referred to the Specialist Crime Directorate.<sup>839</sup>

502. Gary Eaton subsequently provided details of the conspiracy as follows:

- i. Person A13 wanted her former husband killed because of an upcoming court case. Person A13 feared that if her former husband was still around, she could end up going to jail. Gary Eaton agreed to kill her former husband. Person A13 had given him a photograph of her former husband in an envelope, together with details of his work

831 Hearing, pp44-55, 09 November 2009 and Hearing, p22, 10 November 2009.

832 JOINT DEFENCE – MOOREGATE -CONCLUDING SUBMISSIONS, EDN002075001, pp17-20, 22 December 2009; and, Submissions and ruling, EDN000265001, pp84-85, 18 December 2009

833 Ruling of Mr Justice Maddison, MPS107506001, p58, undated.

834 Ruling of Mr Justice Maddison, MPS107506001, p60, para 274.5, undated.

835 Ruling of Mr Justice Maddison, MPS107506001, p64, para 287, undated.

836 Initial notes on debrief on Gary Eaton, EDN001560001, pp5-6, undated.

837 Offences schedule and corroborative evidence table, MPS103428001, p17, undated.

838 Initial notes on debrief on Gary Eaton, EDN001560001, p5, undated.

839 Operation Abelard Two Oversight Panel Meeting, MPS108270001, p3, undated. Matters were referred to Commander Shaun Sawyer and investigated by D/Supt Roger Critchell.



address and car. Gary Eaton had put the envelope under the carpet of the house in a named location where he was staying at the time. It was established, on investigation, that such an envelope had been found by a subsequent tenant at the house.

- ii. Gary Eaton had asked for £1,500 for ‘*background work*’. Person A13 had said that she would pay £5000 on ‘*completion of the contract*’.
- iii. At a later time, Person K17 had given Gary Eaton an envelope containing £1,500.
- iv. Gary Eaton had bought a gun from Person Q3.
- v. Having agreed to kill her former husband, Gary Eaton told Person A13 that he would not do it. He had informed a friend about the matter.
- vi. On the night that Gary Eaton told Person A13 that he was not going to kill her former husband, he had cleaned the gun and thrown it, the magazine and the ammunition, in the paper wrapping, over the Battersea side of Chelsea Bridge, into the River Thames. This was just after midnight. Immediately before throwing the gun into the River Thames, Gary Eaton had bought a burger and a coffee from a burger van on the bridge.<sup>840</sup>

503. On 04 October 2006, Person A13’s former husband had a meeting with the Abelard Two Investigation.<sup>841</sup> The former husband made a statement in which he said that his boat had been sunk by Person A13 on 14 February 2004.<sup>842</sup> Person A13 had been charged by Sussex Police with criminal damage in 2004. The case had been dropped by the prosecution at court in 2005.<sup>843</sup>

504. DCS David Cook decided that the Abelard Two Investigation would also investigate the alleged conspiracy to murder, which was named Operation Haglight. In April/May 2020, after consulting with former T/DCI Noel Beswick and examining some of the Operation Haglight papers, T/DI Gary Dalby provided the following information about those responsible for Operation Haglight:

- i. DCS David Cook was the Senior Investigating Officer until his retirement in December 2007. T/DCI Beswick then became Senior Investigating Officer.<sup>844</sup> However, when asked at interview who the Senior Investigating Officer was former DCS Cook said that DI Douglas Clarke ‘*took the lead on Haglight, with Noel [Beswick]*’.<sup>845</sup> He also said, ‘*I suppose you could say I was hands-on, you know hands-on and hands off from a distance*’. He said that he ‘*was kept informed about it*’. He continued: ‘*Did I have any direct decisions? I may have offered advice or had some influence at some stage but my role in terms of Haglight was fairly limited.*’<sup>846</sup>
- ii. A Detective Constable was the case officer. That Detective Constable and another Detective Constable undertook the disclosure exercise together.<sup>847</sup>

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840 Operation Abelard Assertion Schedule, EDN000207001, pp54-57, undated.

841 Meeting notes, MPS102634001, 04 October 2006.

842 Witness statement of [...], MPS002591001, pp9-10, 24 October 2006.

843 Copy of Crown Court computer records re sinking of [...] by Person A13, MPS104110001, p4. 04 August 2008.

844 Email from DS Gary Dalby, 28 April 2020.

845 Panel interview with former DCS Cook, Transcript 3, p24, 25 August 2020.

846 Panel interview with former DCS Cook, Transcript 3, p24, 25 August 2020.

847 Email from DS Gary Dalby, 28 April 2020.

- iii. Former DS Gary Dalby said that he did not recall being designated Disclosure Officer on Operation Haglight but might have disclosed some material in that case to the Crown Prosecution Service, who cross-served all relevant documents to the various defence teams.<sup>848</sup> A very lengthy schedule of material for disclosure was served on the Defence in December 2009 by DS Dalby.<sup>849</sup> After March 2011, when the staffing of the Abelard Two Investigation had been reduced, DS Dalby had assumed the role of case officer and took the matter to court.<sup>850</sup>
- iv. The Crown Prosecution Service Prosecutor was Stuart Sampson.<sup>851</sup>
- v. Heather Stangoe and Mark Gadsden were Prosecution Counsel.<sup>852</sup>

505. At interview with the Panel, former DCS David Cook was asked why he did not refer the case elsewhere for investigation. He responded that it was necessary for his team to investigate it in order to establish Gary Eaton's credibility, and

*'[...] we didn't have the luxury of being able to farm out different aspects, different investigations to other teams. That other people were admitting to, you know. We took in what we had and we dealt with what he had, in the best way that we could.'*<sup>853</sup>

506. Former DCS David Cook was then asked about the decision made a month earlier on 04 September 2006, that serious crime issues would go to the Specialist Crime Directorate for investigation.<sup>854</sup> He said that he could not remember what discussion had taken place and that ultimately, he had decided to investigate Operation Haglight.<sup>855</sup>

507. When asked about the impact on the Abelard Two Investigation of investigating Operation Haglight and the other matters which he chose to investigate, former DCS David Cook said that it had '[m]assive impact'.<sup>856</sup> He said that his view had been that more resources should have been asked for but that T/DCI Noel Beswick had said that '*we can deal with what we've got within the resources that we had. And since he was operational manager in the team, then I accept his decision on that.*'<sup>857</sup> Former DCS Cook was asked whether he raised the resources issue with DCS Hamish Campbell, who became involved in the senior management of the Abelard Two Investigation. He responded: '*Very few with Hamish. [...] Hamish was looking to reduce us or stop us from doing things, because he was worried about the cost and the budget etc.*'<sup>858</sup>

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848 Email from former DS Gary Dalby, 22 May 2020.

849 Schedule of material served on the Defence, MPS107950001, December 2009.

850 Email from former DS Gary Dalby, 22 May 2020.

851 Email from former DS Gary Dalby, 28 April 2020.

852 Email from former DS Gary Dalby, 28 April 2020.

853 Panel interview with former DCS David Cook, Transcript 3, p24, 25 August 2020.

854 Minutes of Operation Abelard Oversight Group Meeting, MPS109471001, p42, 04 September 2006.

855 Panel interview with former DCS Cook, Transcript 3, pp24-25, 25 August 2020.

856 Panel interview with former DCS Cook, Transcript 3, p26, 25 August 2020.

857 Panel interview with former DCS Cook, Transcript 3, p26, 25 August 2020.

858 Panel interview with former DCS Cook, Transcript 3, p26, 25 August 2020.

508. At this stage, DCS David Cook should have referred the matter to the Metropolitan Police Specialist Crime Directorate. He did not do so. That failure meant that the Abelard Two Investigation was running a full conspiracy to murder investigation in respect of the allegations against Person A13 and others, while also conducting the investigation into Daniel Morgan's murder. There is no evidence that further resources were sought or provided to facilitate this. There is no record that T/DCI Noel Beswick decided that no further resources were required. As Senior Investigating Officer, it was DCS Cook's responsibility to seek adequate resources. There is no evidence that DCS Hamish Campbell subsequently wrongly sought to limit the investigation. In January 2021, former DCS Cook explained to the Panel that it was necessary for him to retain Operation Haglight as it would have been, as a matter of practicality, impossible for him to share Gary Eaton with another investigation team given the sensitivities of the debrief. The Panel accepts it may have been complicated, but former DCS Cook should have referred these matters for consideration within the Metropolitan Police.

509. The Panel had some difficulty in assembling material relating to Operation Haglight. Many documents, including the report to the Crown Prosecution Service, were not available. However, it has been possible to establish basic information.

510. Person K17 was first arrested by the Abelard Two Investigation on 19 December 2006 and charged with conspiracy to murder Person A13's former husband on 28 May 2008.<sup>859</sup>

511. On 31 January 2007, five members of a police underwater search team searched the area of the River Thames off the Chelsea bridge over a period of five days looking for the gun which Gary Eaton had said he had thrown into the river. Nothing relevant to the enquiry was found.<sup>860</sup> A gun was recovered<sup>861</sup> but it did not match the description given by Gary Eaton.<sup>862</sup>

512. Person A13 was first arrested on 19 December 2006 by the Abelard Two Investigation and bailed. On 28 May 2008, she was arrested and did not answer any questions. On the same day, she was charged with conspiracy to murder.<sup>863</sup>

513. Gary Eaton was arrested on 04 May 2007 and charged with conspiracy to murder.<sup>864</sup>

514. Person Q3, from whom Gary Eaton had bought the gun, was first arrested on 28 May 2008 and charged with selling a prohibited weapon contrary to the Firearms Act 1968.<sup>865</sup> He did not answer any questions.<sup>866</sup>

515. Gary Eaton's friend whom he said he had confided in was first arrested and charged on 28 May 2008 with conspiracy to murder.<sup>867</sup> He did not answer any questions.<sup>868</sup>

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859 Arrest and interview package re Person K17, MPS104000001, p61, 28 May 2008.

860 Witness statement of a Police Constable, MPS107950001, p36, 21 February 2007.

861 Witness statement of a Detective Constable, MPS078249001, 12 February 2007.

862 Operation Abelard Assertion Schedule, EDN000207001, p55, undated.

863 Arrest and interview package re Person A13, MPS103999001, pp18-39 and 60, 28 May 2008.

864 Message and statements pertaining to the arrest of Gary Eaton, MPS006762001, p1, 04 May 2007.

865 Arrest and interview package re Person Q3, MPS104001001, p11, 28 May 2008.

866 Transcript of interviews in respect of Person Q3 (1356-1439) MPS075063001, 28 May 2008.

867 Arrest and interview package re [...], MPS104004001, p13, 28 May 2008.

868 Transcript of interviews in respect of [...] (1159-1241) by DC Johnson DS Barnes, MPS075086001, 28 May 2008.

516. Gary Eaton did not plead guilty to the conspiracy to murder charge. He said that he had withdrawn from the conspiracy to murder when he threw the gun into the River Thames. The not-guilty plea was accepted by Stuart Sampson on 09 August 2008. He explained this decision to Defence Counsel in the Daniel Morgan murder case saying that he was *'not clear that either Jonathan REES QC or Nicholas HILLIARD QC were fully sighted of what was happening'* and that:

*'I do not understand how they [Operation Haglight] could contemplate proceeding with the case against the other three conspirators when [Gary Eaton] had said that he had withdrawn, so effectively if he was not guilty, how could the other three be guilty of a crime where there was no person who was to carry out the crime. Wouldn't this have rendered his testimony against the other three very questionable?'*<sup>869</sup>

517. His Honour Judge Richard Hone QC ruled on 19 September 2011 that Gary Eaton's evidence was excluded under section 78 of the Police and Criminal Evidence Act 1984, and the conspiracy to murder charges against all the Defendants in Operation Haglight were withdrawn and they were acquitted.

518. The cost of Operation Haglight was budgeted for in the Abelard Two resourcing arrangements sought by DI Douglas Clarke for the year 01 April 2008 to 31 March 2009.<sup>870</sup> In addition to Operation Haglight, former DCS David Cook assumed responsibility for other investigations, including Operation Medusa<sup>871</sup> using the resources allocated to the Abelard Two Investigation. An email dated 20 October 2010 from DI Clarke to former DCS Cook, T/DCI Noel Beswick and DS Gary Dalby, listed all the persons currently on bail to the Abelard Two Investigation as follows:

- i. An individual charged with 14 offences arising from information supplied by Gary Eaton, the main offence being aggravated burglary. The email stated that *'we are "court ready" but requires the appointment of OIC [Officer in Charge]'*.
- ii. Two individuals who had been charged with assault, intimidating a witness and perverting the course of justice<sup>872</sup> were scheduled for a trial date on 29 November 2010 at Blackfriars Crown Court.
- iii. Former DS Alec Leighton had been arrested on 17 December 2008 and had been re-bailed repeatedly. DI Clarke said that *'should a further re-bail occur on the 15th November 2010, that will take his tally to his [sic] 18 times'*.
- iv. Person L20 had also been arrested in 2008 and was in the same position. DI Clarke stated that *'the defence teams were aware that the decision making [on both former DS Leighton and Person L20] for this situation lies with the CPS [Crown Prosecution Service] but not withstanding we are still taking criticism'*.<sup>873</sup>

519. DI Douglas Clarke concluded this email saying, *'I believe that the CPS [Crown Prosecution Service] should possibly be re-directed to these circumstances. Another problem that we could possibly be prevented from getting worst [sic].'*<sup>874</sup>

869 Letter from Stuart Sampson 09 September 2008 to Defence lawyers.

870 PATP Review, MPS107605001, pp32-38, 15 April 2008.

871 An investigation into one of the allegations made by Gary Eaton regarding a firearm.

872 Custody record for [...], MPS006306001, p26, 21 July 2009; and custody record of Person E30, MPS005566001, P17, 21 JULY 2009.

873 Email from DI Douglas Clarke to DCS David Cook and others, EDN002095001, 20 October 2010.

874 Email from DI Douglas Clarke to DCS David Cook and others, EDN002095001, 20 October 2010.

520. DCS David Cook should not have assumed responsibility for the investigation of these matters which were unconnected to the murder of Daniel Morgan. No resources were allocated to enable the investigations. They involved large amounts of investigation, numerous arrests and return to bail, the gathering of significant amounts of material and the preparation of at least two reports to the Crown Prosecution Service together with the associated disclosure exercises for the two trials which were listed. All these were happening as further difficulties and complexities arose in the Abelard Two Investigation.

521. The diversion of the investigative capacity of the Abelard Two Investigation from its primary focus to the prosecution of other matters could have been prevented had there been proper oversight of DCS David Cook and the Abelard Two Investigation. AC John Yates was responsible for failure to impose a proper management structure and the fact that the Abelard Two Investigation was not run properly.

#### **6.4.8 The conviction and sentencing of Gary Eaton for the crimes he admitted during the debrief process**

522. On 17 October 2008, His Honour Judge Gordon said that the crimes committed by Gary Eaton would have warranted a sentence of 28 years, but the fact that he had volunteered information, made statements and pleaded guilty meant that this sentence was reduced to 14 years, and that the 14-year sentence was reduced by 75 per cent in the light of the assistance given by Gary Eaton under section 73 of the Serious Organised Crime and Police Act 2005. This brought the sentence to three-and-a-half years. His Honour Judge Gordon then reduced that sentence further to three years in recognition of the time which Gary Eaton had spent in protective custody.<sup>875</sup>

523. Gary Eaton's conviction for these offences was necessary before he could be presented to the court as a witness of truth. He was then scheduled as a witness in the forthcoming trial of Jonathan Rees, Glenn Vian, Garry Vian, James Cook and former DS Sidney Fillery. Ultimately, his evidence was excluded by Mr Justice Maddison at the hearing on 15 February 2010.<sup>876</sup> (See section 11.6.1 below.)

### **6.5 Person S15**

524. On 27 October 2006, in an attempt to find more witnesses, DCS David Cook arranged for the publication, in *The Sun* newspaper, of an article about the police finding a 1957 Austin Healey car which had belonged to Daniel Morgan. The article contained new information about Daniel Morgan's car, details of the murder and of the £50,000 reward with a *Crimestoppers* telephone number, through which information could be provided to the police. The car had been removed shortly after Daniel Morgan's murder from the garage in which he had left it. In August 2006, Iris Morgan, who still had the original logbook for the Austin Healey, had asked the

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875 Sentencing Hearing, Regina v Gary Eaton, MPS105543001, p70, 17 October 2008.

876 Extract from transcript of discussion between Mr Justice Maddison and counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, p1, 15 February 2010.



police whether they could find it. It was found on 07 September 2006 having been registered on 14 October 1991 by a man who had bought the vehicle in good faith in about 1988/1989 from a scrap dealer and had spent several thousand pounds restoring it.<sup>877</sup>

525. Person S15 saw the article and came forward to offer to provide information in relation to the murder of Daniel Morgan.<sup>878</sup> He was living overseas and had no previous convictions.<sup>879</sup> He is reported to have said that he hoped to receive some of the reward money.<sup>880</sup>

526. In a statement dated 15 November 2006, Person S15 said that he had been a close friend of Garry Vian's since 1983/1984, that their wives had known each other since childhood, and that the two families had socialised together. Person S15 also said that he had known James Ward and a drug dealer, and that he had known James Cook since 1983/1984.<sup>881</sup>

527. Person S15 recorded that he had been told by Garry Vian about the murder of Daniel Morgan, as follows:

- i. Garry Vian had said that James Cook had been at the murder, but he '*was only involved as the driver*,'<sup>882</sup> and that because James Cook was under investigation for drugs offences Garry Vian and Sharon Vian '*were worried that he may say something, that he would implicate himself as being the driver but that he would get consideration for going Queen's Evidence*';<sup>883,884</sup>
- ii. '*Daniel Morgan was murdered because he was looking into Gary [sic] and others dealing drugs. Morgan knew too much*';<sup>885</sup> and
- iii. '*[H]e (MORGAN) was looking into Gary [sic] and his friends as a P.I. [Private Investigator] and that was the reason that he was murdered*.'<sup>886</sup>

528. The Prosecution intended to use Person S15 as a witness in the trial.

## 6.6 Former Police Officer N21

529. Police Officer N21 had been a member of Catford Crime Squad, reporting to DS Sidney Fillery when Daniel Morgan was murdered.<sup>887</sup> He left the Metropolitan Police in 1989.

530. Police Officer N21 had given a witness statement in November 1987 which included the following information:

- i. He had known Jonathan Rees well, having socialised with him regularly.<sup>888</sup>
- ii. He had not known Daniel Morgan.<sup>889</sup>

877 File re Theft of Austin Healey, DC Caroline Linfoot, MPS104613001, p3, 20 January 2009.

878 Officer's Note re Person S15, MPS005526001, p2, 13 November 2006.

879 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, pp13-14, para 56, 17 February 2017.

880 Officer's note re Person S15, MPS005526001, p2, 13 November 2006.

881 Witness statement of Person S15, MPS078155001, 15 November 2006.

882 Witness statement of Person S15, MPS078155001, p7, 15 November 2006.

883 Providing evidence to assist the prosecution.

884 Witness statement of Person S15, MPS078155001, p7, 15 November 2006.

885 Witness statement of Person S15, MPS078155001, p6, 15 November 2006.

886 Witness statement of Person S15, MPS078155001, p6, 15 November 2006.

887 Witness statement of Police Officer N21, MPS010849001, p2, 20 November 1987.

888 Witness statement of Police Officer N21, MPS010849001, p3, 20 November 1987.

889 Witness statement of Police Officer N21, MPS010849001, p5, 20 November 1987.

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- iii. He had worked on the murder investigation for the first few days with other members of the Catford Crime Squad, making enquiries in local public houses.<sup>890</sup>
- iv. DS Sidney Fillery was a friend of his.<sup>891</sup>
- v. He knew nothing about the murder of Daniel Morgan.<sup>892</sup>

531. Former Police Officer N21 was approached by the Abelard Two Investigation in November 2006 and was initially reluctant to provide information. However, on 23 November 2006, he attended an unrecorded interview with DCS David Cook and A/DCI Noel Beswick in which he talked about corrupt activities by DS Sidney Fillery and various other officers of the Catford Crime Squad at the time of Daniel Morgan's murder<sup>893</sup> (see Chapter 10, Corruption).

532. On 02 February 2007, former Police Officer N21 signed a witness statement naming 21 officers, who, he alleged, were involved in criminal activity. He admitted being personally involved in a number of corrupt activities as a police officer.<sup>894</sup> He also stated the following:

- i. He had met Daniel Morgan on a few occasions, and that the first time was '*about a month to six weeks before the murder*'.<sup>895</sup>
- ii. One day, when he was still working on the Daniel Morgan murder enquiry, he had met WPC Maureen Fentiman, who had said that DS Sidney Fillery had asked her to ask Police Officer N21 '*to get rid of some stuff out of his office*'.<sup>896</sup>
- iii. He went to the Crime Squad office and '*found an apple box under the desk next to Sid's with a load of buff coloured files in*'.<sup>897</sup> Police Officer N21 emptied the contents of the box into a bin bag. He said that he thought there were some police microfiches<sup>898</sup> there and some A4 size files with 'CR' on the top.
- iv. He took them home and hid them in the loft space of his flat.
- v. Later he burned half of these files at his mother-in-law's house and decided to keep the remaining files as some sort of '*insurance policy*'.<sup>899</sup>

533. Police later searched this address, but they did not find the files where former Police Officer N21 had said that he had left them.

534. Former Police Officer N21 did not provide any information specific to the murder of Daniel Morgan. The information which he did provide about removing files for DS Sidney Fillery in the first five days of the murder investigation was investigated but not corroborated. He was not listed as a witness for the murder investigation.

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890 Witness statement of Police Officer N21, MPS010849001, p7, 20 November 1987.

891 Witness statement of Police Officer N21, MPS010849001, p8, 20 November 1987.

892 Witness statement of Police Officer N21, MPS010849001, p, 20 November 1987.

893 Decision 70, Decision Log by A/DCI Noel Beswick re former Police Officer N21, MPS080358001, pp2-3, 12 December 2006.

894 Witness statement of former Police Officer N21, MPS077976001, p2, 02 February 2007.

895 Witness statement of former Police Officer N21, MPS077976001, p6, 02 February 2007.

896 Witness statement of former Police Officer N21, MPS077976001, p7, 02 February 2007.

897 Witness statement of former Police Officer N21, MPS077976001, p7, 02 February 2007.

898 Microfiche – a flat sheet of film on which microphotographs of the pages of a newspaper, catalogue, or other document are stored.

899 Witness statement of former Police Officer N21, MPS077976001, p7, 02 February 2007.

## 6.7 Person X8

535. Person X8 came to the attention of the Morgan One Investigation in October 1987.<sup>900</sup> He was called as a witness by Jonathan Rees during his trial for an offence unrelated to the murder of Daniel Morgan. Jonathan Rees was convicted for this offence. The Morgan One Investigation concluded, on the basis of information received from former DCI Laurence Bucknole, that Person X8 was ‘*anti police*’ and there was no point in contacting him as ‘*we would not obtain any useful or relevant information*’.<sup>901</sup>

536. Person X8 was subsequently approached by the Hampshire/Police Complaints Authority investigation in 1989, because they had become aware that he was living with Garry Vian’s mother. In a statement made on 08 February 1989, he had explained that he had been living with Garry Vian’s mother for about 12 months. He had started to work for Jonathan Rees during the latter part of 1988 on a part-time basis. He said that he knew nothing about the murder and that he had not known Daniel Morgan.<sup>902</sup>

537. On 26 June 2002, a police officer had submitted a message suggesting that the Abelard One/Morgan Two investigation look at Person X8, who ‘*knew all these people*’.<sup>903</sup> On 02 August 2002, Person X8 was sentenced to ten years’ imprisonment for manslaughter,<sup>904</sup> and he was interviewed on 05 November 2002, while in prison. He had said, at this stage, only that he had known Daniel Morgan. He had not provided any further information to assist the investigation of Daniel Morgan’s murder, although the police officer who interviewed him reported that, ‘*I believe this inmate has vital information that will assist police in identifying person(s) responsible for this brutal murder and that consideration should be given to employing covert techniques that will assist in progressing this enquiry further*’.<sup>905</sup>

538. Kim Vian and Glenn Vian had talked about Person X8 during a conversation which had been covertly recorded on 10 October 2002. It had become apparent that they were aware that police were making enquiries about Person X8. They speculated that this may have been because Person X8 had worked for Southern Investigations. The transcript is unclear, but Kim Vian was recorded as saying of Person X8. ‘*[i]f someone told him he had only 12 months to live he might confess*’.<sup>906</sup>

539. James Ward had told DCS David Cook and others on 02 February 2005 (see paragraph 243 above) that ‘*[Person X8] used to go out with Gary’s [sic] mum. Gary said “don’t talk to him [Person X8]’ cos he’s ill and in for 15” I never have. Gary thinks if he’s offered parole or £50k or anything, [Person X8] would roll over.*’<sup>907</sup>

540. An intelligence profile of Person X8 was created by the Abelard Two Investigation in June 2006. It confirmed that he had been convicted of manslaughter and was imprisoned for ten years on 02 August 2002.<sup>908</sup>

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900 Court printout of Person X8, MPS001483001, p1, undated.

901 Action A1261 to research Person X8, MPS072475001, p2, allocated 07 October 1987.

902 Witness statement of Person X8, MPS017270001, 08 February 1989.

903 Message M4 from a Police Constable, MPS072479001, 26 June 2002.

904 Court printout of Person X8, MPS001483001, 22 March 2010.

905 Intelligence report re Person X8, MPS072487001, 07 November 2002.

906 Audio summary of covert recording, MPS049947001, p4, 10 October 2002.

907 Transcript of interview, MPS001102001, p6, 02 February 2005.

908 Court printout of Person X8, MPS001483001, p6, 22 March 2010.

541. In June 2007, it was decided by the Abelard Two Investigation to take a statement from Person X8 about his knowledge of Daniel Morgan's murder.<sup>909</sup> On 30 January 2008 and 04 February 2008, he was visited in prison by officers from the Abelard Two Investigation. He provided information about the murder of Daniel Morgan and about those whom he believed to be involved and agreed to make a statement. That statement was recorded on 19 February 2008 and included the following information:<sup>910</sup>

- i. Former DS Sidney Fillery started working full-time in Southern Investigations around the time that Person X8 started there in 1988 or 1989;
- ii. Southern Investigations used to sell stories to Alex Marunchak of the *News of the World* newspaper. Some of these stories were made up by Jonathan Rees;
- iii. Jonathan Rees had compromising photographs of police officers which he retained as '*insurance*'.<sup>911</sup> One photograph was of a person whom Jonathan Rees had described as '*a senior police officer*';<sup>912</sup>
- iv. Former DS Fillery was heavily involved with the Freemasons, as was Jonathan Rees;
- v. Former DS Fillery and Jonathan Rees employed a number of former police officers at Southern Investigations including former Police Officer N21 and former DC Duncan Hanrahan;
- vi. Jonathan Rees and former DS Fillery used a computer hacker to access sensitive records;
- vii. Glenn Vian and James Cook had robbed Jonathan Rees of the Belmont Car Auctions money (see Chapter 1, The Morgan One Investigation), and were involved in other robberies;
- viii. It was his opinion that Daniel Morgan had '*discovered something illegal that REES and FILLERY were involved in, possibly major Police corruption*', and that '*whomever it was that was involved with REES, found out that MORGAN was about to expose their dealings and instructed or persuaded REES to silence MORGAN by whatever means necessary*';<sup>913</sup>
- ix. Garry Vian was a close friend of James Cook and that they worked together in the drugs trade;
- x. He had been afraid of '*FILLERY's circle of influence*'.<sup>914</sup> He said that '*he was a powerful man with a far-reaching network of contacts, both within and outside of the law. I was always under the impression he was not to be trifled with.*'<sup>915</sup> He also said that he was aware that '*FILLERY has "fitted" people up in the past*'.<sup>916</sup>

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909 Message M760 requesting statements to be taken from Person P9, Person F11, [...] and Person X8, MPS067003001, 07 June 2007.

910 Witness statement of Person X8, MPS078367001, 19 February 2008.

911 Witness statement of Person X8, MPS078367001, pp2-3, 19 February 2008.

912 Witness statement of Person X8, MPS078367001, p2, 19 February 2008.

913 Witness statement of Person X8, MPS078367001, p7, 19 February 2008.

914 Witness statement of Person X8, MPS078367001, p10, 19 February 2008.

915 Witness statement of Person X8, MPS078367001, p10, 19 February 2008.

916 Witness statement of Person X8, MPS078367001, p10, 19 February 2008.

542. Person X8 also provided more specific information in relation to the murder of Daniel Morgan, as follows:

- i. Shortly after Jonathan Rees was released from prison in 1989, Glenn Vian had come into the offices of Southern Investigations. He had been very angry. Glenn Vian had told Person X8 that Jonathan Rees had instigated the murder of Daniel Morgan and that he had paid Glenn Vian and James Cook to do the murder. Glenn Vian had said that he was owed £8,000 by Jonathan Rees as the final payment for the murder;
- ii. Glenn Vian had told him '*something along the lines that he had come up behind MORGAN and killed him from the back*';<sup>917</sup>
- iii. James Cook had been the getaway driver, and he had stolen a Ford Cortina specifically for the getaway;
- iv. Glenn Vian had said that James Cook did not tell him what happened to the car after the murder;
- v. The information that Glenn Vian had given to him about the roles played by Glenn Vian, James Cook and Jonathan Rees had been passed on by Person X8 to DS Sidney Fillery;<sup>918</sup>
- vi. Garry Vian was not involved in the murder;
- vii. He was unaware that Daniel Morgan's trouser leg had been ripped;
- viii. He did not know what had happened to Daniel Morgan's watch;
- ix. He thought that he had helped an individual, now deceased, to clear out a garage and he may have pulled the Austin Healey car out of the garage and helped put it onto a tow truck of sorts.<sup>919</sup>

543. Person X8 said that, sometime after his conversation with Glenn Vian, when Glenn Vian had said that he was owed £8,000 for carrying out the murder of Daniel Morgan, he had seen Jonathan Rees with a brown envelope on his desk. Jonathan Rees had been counting money into a brown envelope. Glenn Vian had then come into the office, and Person X8 had seen him leave the office with a brown envelope sticking out of his inside jacket pocket. Glenn Vian had told Person X8 that Jonathan Rees had just paid him the £8,000 owing from Daniel Morgan's murder. Person X8 said that when he saw Jonathan Rees counting the money, '*it certainly looked to me to be in the region of £8,000.00 that I saw*'.<sup>920</sup> Although Person X8 did not know how much Jonathan Rees had paid Glenn Vian and James Cook, he knew that in those days the price of having someone killed was £20,000-25,000.<sup>921</sup> In the weeks preceding this final payment he said that there had been '*lots of arguments behind closed doors*'<sup>922</sup> between Jonathan Rees, Glenn Vian and James Cook. He also said that he had told former DS Sidney

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917 Witness statement of Person X8, MPS078367001, p5, 19 February 2008.

918 Witness statement of Person X8, MPS078367001, p6, 19 February 2008.

919 Witness statement of Person X8, MPS078367001, p8, 19 February 2008.

920 Witness statement of Person X8, MPS078367001, pp5-6, 19 February 2008.

921 Witness statement of Person X8, MPS078367001, p6, 19 February 2008.

922 Witness statement of Person X8, MPS078367001, p6, 19 February 2008.



Fillery about this but that former DS Fillery had asked Person X8 if he thought that former DS Fillery would *'get himself involved with REES if he thought that REES was in any way connected to MORGAN's murder'*.<sup>923</sup>

544. The Prosecution decided to use Person X8 as a witness.

## 6.8 Person J5

545. Gary Eaton had told his debriefers that a woman had been in a relationship with James Cook between 1990 and 1999.<sup>924</sup> Police identified that woman as Person J5.<sup>925</sup> She had no criminal convictions.<sup>926</sup>

546. A decision was made to find Person J5 in November 2006,<sup>927</sup> and police contacted her mother.<sup>928</sup> DC Caroline Linfoot met Person J5 on 15 December 2006.<sup>929</sup> Person J5 subsequently told DC Linfoot that she believed that her mother would contact James Cook, that she was very afraid of James Cook, and repeatedly stated that she was unwilling to appear in court.

547. In a typed message to the Abelard Two Investigation, DC Caroline Linfoot recorded that Person J5 had said the following:

- i. She had begun an eight-year relationship with James Cook around 1991. She said that *'their relationship wasn't really up to much, in that he didn't take her out very much and only saw her when it suited him'*.<sup>930</sup> She ended the relationship;
- ii. During that period James Cook had told her about Daniel Morgan's murder. She had heard James Cook talk about Daniel Morgan's murder *'several times'*<sup>931</sup> and James Cook had talked about it among his circle of close friends;
- iii. Jonathan Rees (she referred to *'John Rees'*) had something to do with the murder and his brother-in-law had carried it out,<sup>932</sup>
- iv. Jonathan Rees had met Daniel Morgan in the Golden Lion public house;
- v. People thought that Jonathan Rees and Daniel Morgan had then left the public house by separate doors, but Jonathan Rees had led Daniel Morgan out into the car park and had been present when he had been killed;
- vi. The man who committed the murder was *'a nutter, a big bloke from Croydon'*,<sup>933</sup> and she thought that *'he may have worked on the doors at clubs sometimes'*.<sup>934</sup> When DC Linfoot asked her if the name of the man could have been Garry or Glenn, she immediately said it was Glenn.<sup>935</sup>

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923 Witness statement of Person X8, MPS078367001, p6, 19 February 2008.

924 Record of Debrief Interview, MPS102877001, p3, 15 September 2006.

925 Action A566, *'Trace and identify the [...] know as Person J5 N912'*, MPS006129001, p1, allocated 17 November 2006.

926 Police National Computer printout in respect of Person J5, MPS005403001, p2, 30 June 2009.

927 Action A566, *'Trace and identify the [...] know as Person J5 N912'*, MPS006129001, p1, 17 November 2006.

928 Message M420, MPS004342001, p1, 15 December 2006.

929 Message M420, MPS004342001, p1, 15 December 2006.

930 Message M420, MPS004342001, p2, 15 December 2006.

931 Message M420, MPS004342001, p2, 15 December 2006.

932 Message M420, MPS004342001, p2, 15 December 2006.

933 Message M420, MPS004342001, p2, 15 December 2006.

934 Message M420, MPS004342001, p2, 15 December 2006.

935 Message M420, MPS004342001, p2, 15 December 2006.

- vii. She *'thought that the murder was about a woman, she thought that either John was trying it on with Daniel's wife, or it was the other way round. She also thought that John had had a go at Daniel in the car park before he was killed'*;<sup>936</sup>
- viii. Jonathan Rees *'often paid police officers to do things for him'*.<sup>937</sup>

548. Person J5 did not volunteer the name 'Glenn'; it was suggested to her by DC Caroline Linfoot. In these circumstances, it was inappropriate for a police officer to provide a possible name or identity of a suspect. This should not have happened.

549. DC Caroline Linfoot also said that Person J5 had given information in relation to another murder.<sup>938</sup> That information was passed on by DC Linfoot to the police force responsible for investigating that murder.

550. The information in relation to James Cook and about the murder of Daniel Morgan which Person J5 had given to DC Caroline Linfoot was potentially very important, and DCS David Cook and DC Linfoot met Person J5 on 21 December 2006. They explained the investigation to Person J5. It is not known what was said about the investigation. Person J5 articulated concerns about her safety were she to give evidence, and DC Linfoot agreed to meet Person J5 in the New Year to discuss matters further.<sup>939</sup>

551. On 05 January 2007, DC Caroline Linfoot telephoned Person J5 stating that she needed to speak to her and her partner *'so that we could explain to them what was happening with our investigation and the potential impact on her. She said [...] that she wanted to help but couldn't [...] she was in counselling and had suffered panic attacks [...] she had been taking anti-depressants for four years and that they caused her lapses in her memory.'*<sup>940</sup> DC Linfoot stated, *'I explained [...] it was necessary for her to realise that she could be summonsed to attend court [...] I explained that no one currently knew I had spoken to her but that it could be disclosed in the future.'*<sup>941</sup>

552. DC Caroline Linfoot also recorded that Person J5 stated that she did not want to see police again, and that *'[s]he again said she did not know if she could remember what she had told us on previous occasions'*.<sup>942</sup>

553. However, despite Person J5's reluctance to be a witness, the information which she had provided was rightly regarded as important, and that day DC Caroline Linfoot wrote to Person J5, saying:

*'The law has recently changed and that now affords the Prosecuting Authorities to make application to the Court to require a person who has relevant evidence to attend the court and give that evidence whether they wish to or not.'*

936 Message M420, MPS004342001, p2, 15 December 2006.

937 Message M420, MPS004342001, p2, 15 December 2006.

938 Message M420, MPS004342001, p2, 15 December 2006.

939 Message M434, in respect of Person J5, MPS005416001, 22 December 2006.

940 Message M454, MPS073353001, p2, 05 January 2007.

941 Message M454, MPS073353001, pp2-3, 05 January 2007.

942 Message M454, MPS073353001, p3, 05 January 2007.

*'You will be more aware of what, if any risk you are under through the evidence you can give against the individual concerned. Whilst we are under a duty of care to ensure your safety the making of a witness statement places a higher responsibility on the police to take into account your health and welfare consideration and makes it a criminal offence for any person to interfere, whether by way of threats or otherwise, with your daily life. The level of assistance we can and will offer will be dependent upon the level of risk but can be substantial.'*<sup>943</sup>

554. A/DCI Noel Beswick opened a witness contact log for Person J5 on 11 January 2007.<sup>944</sup> His opening notes stated that Person J5 *'has provided information but needs time to consider providing witness testimony. We will maintain contact with her and provide police support necessary should she wish to deal with her [illegible] through the legal system.'*<sup>945</sup> He continued, *'DC Linfoot has begun to develop a rapport with her and so will continue the contact, supporting her with her issues, and hopefully obtaining her testimony in relation to [James] Cook'*.<sup>946</sup>

555. Between 11 January 2007 and 12 April 2007, DC Caroline Linfoot and Person J5 exchanged more than 16 text and telephone messages, in which DC Linfoot attempted to arrange to meet Person J5 to talk through the letter and obtain her evidence.<sup>947</sup>

556. On 17 January 2007, Person J5 said that she was happy to talk. She also stated that she had had an accident the previous night when she fell over while walking her dog, so she was housebound, and she did not respond to further messages.<sup>948</sup>

557. As stated above (see paragraphs 108-110), because of ongoing concerns about the adequacy of the oversight arrangements for the Abelard Two Investigation at this time, it had been decided that Commander David Johnston should have an oversight role. Former Commander David Johnston told the Panel that that there had been over 500 calls between DCS David Cook and Person J5 in the early part of 2007. Former Commander Johnston's information about these calls has not been corroborated, but he has told the Panel that DCS Cook had said that the contact was justifiable because the witness was *'shaky'* and needed a great deal of support. Former Commander Johnston said that DCS Cook *'did not seem to understand'* that the huge amount of contact on the itemised billing could be interpreted as an attempt to coach the witness, and it may be suggested that Person J5 had been offered inducements to give evidence.<sup>949</sup>

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943 Copy of letter and attachments sent to Person J5, MPS102964001, p2, 05 January 2007.

944 Record of contact log re Person J5, MPS102985001, 11 January 2007.

945 Record of contact log re Person J5, MPS102985001, p3, 11 January 2007.

946 Record of contact log re Person J5, MPS102985001, p3, 11 January 2007.

947 Record of contact with Person J5, MPS005395001, pp1-13, various dates.

948 Record of contact with Person J5, MPS005395001, pp1-2, 17 January 2007.

949 Panel interview with David Johnston, p2, 29 September 2016.

558. DCS David Cook had a responsibility to attempt to identify credible witnesses who might provide evidence about the murder of Daniel Morgan. Person J5 was such a witness. However, it is a cause of significant concern that there is no evidence that former DCS Cook had made any record of any of his contacts with Person J5, and that he had, according to former Commander Johnston, admitted this very significant number of unrecorded contacts with someone whom the Abelard Two Investigation was seeking to recruit as a witness. There is no evidence that DC Caroline Linfoot was aware of this level of contact. Person J5 was a vulnerable and very frightened person, and this level of contact by a police officer holding the rank of Detective Chief Superintendent must have added considerably to the pressures that Person J5 experienced during this period.

559. On 29 January 2007, DC Caroline Linfoot attended Person J5's home address but received no reply. She said that there was a piece of wood covering the glass panel in the front door and another piece of wood above the front door; the windows were very dark, and the glass looked as if some kind of coating had been put on the inside to stop someone looking inside. She checked to see whether police had been called to attend at the address for any reason but no such calls had been received.<sup>950</sup>

560. On 30 January 2007, Person J5 said that she was unwell and being looked after by her partner, so *'I can't help with anything at the moment. Sorry.'*<sup>951</sup>

561. On 06 February 2007, DC Caroline Linfoot began further attempts to meet Person J5.<sup>952</sup>

562. On 19 March 2007, Person J5 again texted to say that she had dislocated her knee, following a fall over her dog. She said that she would be out of contact for a few weeks.<sup>953</sup>

563. DC Caroline Linfoot went to Person J5's home on 13 April 2007 with DS Danny Dwyer, and the conversation was covertly recorded by the police.<sup>954</sup> DC Linfoot and DS Dwyer both attempted to persuade Person J5 that she should give evidence, because if she did not do so then she would be at greater risk than if she did give evidence. During the conversation, DC Linfoot was recorded acknowledging that Person J5 had taken some security precautions and saying:

*'[t]he reason that I said that I needed to speak to you is because need [sic] to make a few things clear to you [...] the reason I am here is to tell you that we have concerns that he [James Cook] might be looking for you only because somebody on the team has spoken to somebody who has described where this flat is, and has described coming down the lane its [sic] in a block of flats and as you look at them it's the bottom left hand flat.'*<sup>955</sup>

950 Record of contact with Person J5, MPS005395001, p2, 29 January 2007.

951 Record of contact with Person J5, MPS005395001, p2, 30 January 2007

952 Record of contact with Person J5, MPS005395001, pp2-3, 06 February 2007.

953 Record of contact with Person J5, MPS005395001, pp11-12, 19 March 2007

954 Transcript of covert recording of conversation with Person J5, MPS005411001, 13 April 2007.

955 Transcript of covert recording of conversation with Person J5, MPS005411001, p11, 13 April 2007.

564. Person J5 asked, '[b]ut how would they know that though?' DC Caroline Linfoot replied, '[w]e don't know, but we haven't told them'.<sup>956</sup> She continued, 'I am not saying that something is likely to happen imminently or if anything will happen.'<sup>957</sup> However, she emphasised again that Person J5 would have a lot more protection by giving evidence because if anything happened to her, the person concerned would be interfering with a witness. DC Linfoot continued, '[...] what I will say to you is only you know him and only you know what he is likely to do and what he is capable of and only you know why he would want to stop you saying anything [...] I am not trying to scare you but I am duty bound to tell you what I know.'<sup>958</sup>

565. During the pre-trial hearing on 26 November 2009, DC Caroline Linfoot was questioned about what she had said to Person J5 on this occasion. DC Linfoot told the court that the intelligence had been given to her by a member of the Abelard Two Investigation team but said she could not remember by whom, and that it was not made up. When interviewed by the Panel, former T/DCI Noel Beswick stated, 'I am sure that we had intelligence' and that a record of it had been made.<sup>959</sup>

There is no record of this intelligence among the papers seen by the Panel. The Metropolitan Police told the Panel, after searching their systems at the Panel's request, that they have no record of this intelligence.<sup>960</sup> However, the Panel has no evidence that DC Linfoot and former T/DCI Beswick did not believe that the intelligence existed.

The statement by DC Linfoot appears to have been calculated to pressurise Person J5 to give evidence.

566. During this visit to Person J5's home, DS Danny Dwyer mentioned the name Gary Eaton, as recorded in the following transcript:

DS Danny Dwyer     '*As Caroline says we are talking [sic] a lot of people and I can let you know some information have you ever heard of a name Gary Eaton?*'

[Person J5]         '*He had a friend called Gary but I don't know his surname*'

DS Danny Dwyer     '*Gary is my friend now and Gary has been telling me lots of things*'

[Person J5]         '*Is he a great big guy?*'

DS Danny Dwyer     '*Yeah, Gary has been telling me lots of things [...]*<sup>961</sup>

DS Danny Dwyer then told Person J5 that her evidence would form part of a picture made from several witnesses' evidence.<sup>962</sup>

956 Transcript of covert recording of conversation with Person J5, MPS005411001, p11, 13 April 2007.

957 Transcript of covert recording of conversation with Person J5, MPS005411001, p11, 13 April 2007.

958 Transcript of covert recording of conversation with Person J5, MPS005411001, p14, 13 April 2007.

959 Panel interview with former T/DCI Noel Beswick, Notes of meeting, pp9-10, 11 December 2018.

960 Email from Gary Dalby to DMIP, 24 October 2019.

961 Transcript of covert recording of conversation with Person J5, MPS005411001, p-15-16, 13 April 2007.

962 Transcript of covert recording of conversation with Person J5, MPS005411001, pp15-16, 13 April 2007.



567. Gary Eaton was an Assisting Offender at the time. In these circumstances, it was inappropriate for a police officer to disclose his name or identity to another witness.

568. DS Danny Dwyer and DC Caroline Linfoot continued to try to persuade Person J5 to give evidence. DC Linfoot said,

*'[w]e just need to let you know what is going on and we need to make you realise and why we are trying desperately to tell you this, that you only know what threat you pose to him [James Cook] and all we are trying to do is make you realise is that if something goes on in the interim period we are stuck and the other thing I would say to you is that he has been described to me as the kind of person if you have an argument with him he will do whatever to drag you into it and not only he may never find you maybe he [...] might think that you are a threat to him [...] he is the kind of person in desperation will do all kinds of things so you need to think [...].'*<sup>963</sup>

569. Person J5's daughter then arrived, and Person J5 asked the police to leave, which they did. Person J5 promised to telephone DC Caroline Linfoot on the following Monday.<sup>964</sup> There is no record that she did so.

570. Four days later, on 17 April 2007, DS Danny Dwyer and DC Caroline Linfoot visited Person J5 again. She did not open the door initially but eventually did so, telling them that the only thing she remembered saying about James Cook was: *'I remember saying to you that he didn't do it.'*<sup>965</sup> She said that anything she had said *'has been gossip all over the years'*.<sup>966</sup>

571. The Abelard Two Investigation had become aware that the Surrey Police Financial Investigations Unit had begun to investigate Person J5 in respect of possible fraud offences. The Abelard Two Investigation also became aware that *'[Person J5] may have been with Jimmy COOK when he planted drugs in a car a few years ago'*.<sup>967</sup>

572. On 26 April 2007, DCS David Cook recorded a decision that *'[n]o further contact shall be made with (Person J5) to recruit her as a witness in the Daniel Morgan investigation until such time as the current criminal allegations against her have been investigated'*.<sup>968</sup> The log recorded that Person J5 had refused to make a statement despite repeated attempts to persuade her to do so.<sup>969</sup>

573. Abelard Two Investigation records show that on 05 June 2007 Surrey Police were continuing to investigate Person J5 for multiple fraud offences, and that this may present *'an opportunity for us to speak to her again about her coming on board with us'*.<sup>970</sup>

963 Transcript of covert recording of conversation with Person J5, MPS005411001, pp17-18, 13 April 2007.

964 Transcript of covert recording of conversation with Person J5 OOD, MPS005411001, p19, 13 April 2007.

965 Transcript of covert recording of conversation with Person J5, MPS006152001, p4, 17 April 2007.

966 Transcript of covert recording of conversation with Person J5, MPS006152001, p5, 17 April 2007.

967 Message M657, Person J5 may have been with James Cook when he planted drugs in a car a few years ago, MPS066376001, 16 April 2007.

968 Decision 24, Decision Log by DCS David Cook, MPS080599001, p1, 26 April 2007.

969 Decision 24, Decision Log by DCS David Cook, MPS080599001, p1, 26 April 2007.

970 Minutes of office meetings, MPS071803001, p51, 05 June 2007.

574. DCS David Cook was informed by Surrey Police on 03 August 2007 that Person J5's home had been searched by officers from Surrey Police under the Proceeds of Crime Act. This related to their ongoing investigation of alleged multiple fraud offences by Person J5.<sup>971</sup> Surrey Police had '*found several bits of paper that [Person J5] had written re what to say to police*'.<sup>972</sup> These documents were examined but did not add any information to assist the investigation of Daniel Morgan's murder.

575. DC Caroline Linfoot spoke to Person J5 later that day, 03 August 2007, telling her that the Surrey Police investigation was separate from the Daniel Morgan investigation and that the Metropolitan Police still wished to talk to her. DC Linfoot also said to Person J5 that DCS David Cook may well start investigating a robbery at Asda (a supermarket) that had occurred on 04 March 1998. Person J5 is reported to have responded '*[i]t's got nothing to do with me, as far as I know Jimmy went there to do his shopping at midnight [...] How was I to know what was going to happen?*'<sup>973</sup> There was no discussion of whether Person J5 might be interested in becoming an Assisting Offender under the Serious Organised Crime and Police Act 2005, nor did Person J5 raise the possibility that she might assist the investigation of Daniel Morgan's murder as an Assisting Offender.

576. DC Caroline Linfoot then wrote to Person J5 on 07 August 2007: '*Further to our discussion on Friday, could you get your solicitor to contact either myself or Det Chief Supt COOK as soon as possible so that they can be made aware of the SOCPA [Serious Organised Crime and Police Act 2005] legislation that you may wish to consider in the near future.*'<sup>974</sup> Person J5's solicitor contacted the Abelard Two Investigation team to discuss the possibility of Person J5 assisting the investigation on 10 August 2007. He stated that he would speak to his client to obtain further instructions.<sup>975</sup>

577. Abelard Two Investigation office meeting minutes of 02 October 2007 record that, following a meeting with the Crown Prosecution Service, the pursuit of Person J5 as a witness was to take lower priority than other lines of enquiry.<sup>976</sup>

### 6.8.1 Risk assessment and arrest of Person J5

578. It was decided to investigate the armed robbery, which had occurred at the Asda store in Burgh Heath, Surrey, on 04 March 1998,<sup>977</sup> during which the sum of approximately £360,000 had been stolen (see paragraph 575 above). The matter had been investigated by the Metropolitan Police Flying Squad and closed, with no suspects having been identified, on 28 August 1998. Intelligence available to the Metropolitan Police indicated that police officers involved in the investigation may have been 'paid off' by James Cook.<sup>978</sup> It had been alleged that James Cook was involved in the robbery. Person J5 had been living with James Cook at the time of the robbery, and there was consideration of whether to arrest Person J5 for suspected involvement in the robbery.<sup>979,980</sup>

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971 Record of contact with Person J5, MPS005395001, p16, 03 August 2007.

972 Record of contact with Person J5, MPS005395001, p16, 03 August 2007. Other Document D1485, a copy of the, '*bits of paper*', was created as Abelard II, MPS103579001 31 August 2007.

973 Disclosure document, CLA000017001, p1, undated.

974 Letter to Person J5 re SOCPA legislation, MPS005397001, p2, 07 August 2007.

975 Message M872 re phone call from Person J5's, solicitor, MPS005420001, p1, 10 August 2007.

976 Minutes of office meetings, MPS071803001, p58, 02 October 2007.

977 Intelligence profile in respect of Person J5, CLA000019001, p1, 07 November 2007.

978 Officer's Report, EDN000585001, p3, para 19, 03 July 2009.

979 Charging Advice Sought in Relation to the Robbery of Asda Supermarket, Burgh Heath, 1998, EDN000128001, p1, para 1; pp11-12, paras 56 & 58; & pp7-8, para 38, undated.

980 Minutes of Office Meetings, MPS071803001, p58, 02 October 2007.

579. Former DCS David Cook told the Panel in interview that *'with Surrey Police we started to investigate [Person J5] and her boyfriend's criminality, with the views of prosecuting them. And then [Person J5] might think twice, because there's SOCPA [Serious Organised Crime and Police Act 2005] legislation is available to you, right. The fact is that you're under investigation, you're under prosecution. So, you put pressure on them like that. You say, "Well there's a SOCPA legislation, how do you fancy coming on board now"? That's pressure. But that's legitimate pressure in many ways, because there's nothing to stop us from doing that.'*<sup>981</sup>

580. On 22 October 2007, a risk assessment was carried out in preparation for the arrest of Person J5.<sup>982</sup> The reasons given for the arrest included the fact that *'[e]xecuting this arrest enquiry is necessary to support and corroborate witnesses in the murder of Daniel MORGAN'*.<sup>983</sup> On 07 November 2007, Person J5 and two other people were arrested by DC Caroline Linfoot. As is normal in such circumstances, Person J5's fingerprints and DNA were taken.<sup>984</sup> Person J5's interview lasted 20 minutes.<sup>985</sup> Person J5 did not answer any questions.<sup>986</sup> The Custody Record includes a custody risk assessment of Person J5 which indicates clearly that Person J5 was a vulnerable person.<sup>987</sup> Person J5 was released on bail. On 14 January 2008, T/DCI Noel Beswick authorised no further action against the suspects as there was no further evidence.<sup>988</sup> DC Linfoot obtained consent from T/DCI Beswick on 14 January 2008 to visit Person J5 at her home address to inform her that there would be no further action against her in relation to the armed robbery.<sup>989</sup>

581. Former DCS David Cook was asked at interview about the sustained pressure applied by the Abelard Two Investigation to Person J5, who was described to him by the Panel as being *'a very reluctant witness, that [Person J5] was emotionally vulnerable, that [Person J5] was being put under a lot of pressure by you and your team to give evidence that she didn't want to give'*. Former DCS Cook replied, *'Absolutely. Absolutely.'* Shortly afterwards former DCS Cook said, *'[w]hen we were dealing with [Person J5], there was nothing to indicate that [Person J5] was vulnerable'*.<sup>990</sup> In January 2021, former DCS Cook provided further detail on the use of Person J5 by the Abelard Two Investigation, stating that by virtue of her circumstances, Person J5 was vulnerable to an extent but that she had presented herself as a confident person who maintained her position that she did not wish to help the investigation. However, former DCS Cook also told the Panel that being vulnerable did not prevent Person J5 from engaging with the investigation and becoming a witness, only that it necessitated extra measures to support her.

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981 Panel interview of former DCS David Cook, Transcript 4, p8, 25 August 2020.

982 Document D1702, Risk assessment re Person J5, MPS103796001, pp1-6, 22 October 2007.

983 Document D1702, Risk assessment re Person J5, MPS103796001, p5, 22 October 2007.

984 Custody record, DMIP D519, p4, 07 November 2007.

985 Statement of DC Caroline Linfoot, EDN000495001, p77, 21 November 2007.

986 Charging Advice Sought in Relation to the Robbery of Asda Supermarket, Burgh Heath, 1998, EDN000128001, p10, para 51, undated.

987 Custody record, DMIP D519, pp6-7, 07 November 2007.

988 Officer's Report on Person J5, EDN000585001, p3, para 21, 03 July 2009.

989 Meeting person on bail report re Person J5, MPS006140001, p2, 14 January 2008.

990 Panel interview of former DCS David Cook, Transcript 4, pp7-8, 25 August 2020.

582. Person J5 was, she had repeatedly said, scared and very reluctant to give evidence. On two occasions when police attempted to contact her, she had said that she had fallen over her dog and injured herself. Despite the stated intention of T/DCI Noel Beswick to provide police support, there is no evidence that the Abelard Two Investigation conducted a full risk assessment of Person J5's situation until 2009, despite a growing awareness that she had mental health problems, and despite her frequently articulated fears. She was subjected to sustained and significant pressure to become a witness. The arrest of Person J5 by DC Caroline Linfoot, the officer who was trying to persuade her to give evidence, appears to have been an attempt to put further pressure upon her to give evidence. While there was emerging evidence of her possible involvement in the Asda armed robbery, this matter should have been referred to the Specialist Crime Directorate for investigation. This did not happen.

583. No decision was made at this stage as to whether Person J5 might become a Prosecution witness.

## 6.9 Person B18

584. In 2006, the Abelard Two Investigation reviewed previous evidence to identify additional witnesses. One of those identified was Person B18.

585. During a meeting on 14 July 1987, Person B18 had provided information about the killing of Daniel Morgan to the Metropolitan Police and had drawn a plan of the location of the killing<sup>991</sup> (see Chapter 1, The Morgan One Investigation).

586. D/Supt Douglas Campbell had recorded that Person B18 was a drug addict who was then on bail for credit card offences. She had said that Daniel Morgan had been in the Golden Lion public house on an un-specified date, when he was apparently trying to discover the identity of a person who had supplied drugs to a client's daughter. She had named two drug dealers and a bodyguard called 'PICKLES', who were also in the bar at this time. Person B18 had initially said that another named drug dealer had also been in the bar, but later had changed this to one of two drug dealers whom she had originally named.<sup>992</sup>

587. The Morgan One Investigation had made various enquiries to attempt to verify the information given by Person B18. It had been confirmed that one of the drug dealers had been in custody from 16 February 1987, charged with conspiracy to supply heroin.<sup>993</sup> This meant that Person B18's alleged sighting of Daniel Morgan in the Golden Lion public house had occurred at least three weeks before his murder.

588. The Abelard Two Investigation team reviewed the information previously gathered and interviewed Person B18. The interview was recorded on video tape.<sup>994,995,996</sup> On 19 July 2007, the police then took a written statement<sup>997</sup> in which Person B18 formally adopted the content of the

991 Witness statement of a Detective Constable, MPS028054001, p2, 24 October 1988.

992 Message M371, from D/Supt Douglas Campbell, MPS031621001, 26 August 1987.

993 Message M557, from D/Supt Douglas Campbell, MPS018909001, 04 November 1987.

994 Record of interview of Person B18, MPS005775001, 19 July 2007.

995 Record of interview of Person B18, MPS005775001, 19 July 2007.

996 Record of interview of Person B18, MPS005775001, 19 July 2007.

997 Witness statement of Person B18, MPS003047001, 19 July 2007.

video interview as her statement. Person B18 provided a lot of information about matters other than the murder of Daniel Morgan and provided many names of individuals with whom she had associated, but much of it was vague and some was confused.

589. Person B18 claimed among other things that:

- i. she had seen Daniel Morgan in the Golden Lion public house on four or five occasions, but had only spoken to him once;<sup>998</sup>
- ii. Daniel Morgan had been trying to find out who had provided drugs to a girl whose father wanted to identify the drugs supplier;<sup>999</sup>
- iii. a named individual had approached Daniel Morgan because he was trying to buy drugs in the Golden Lion public house and had introduced Daniel Morgan to the alleged drug dealer;<sup>1000</sup>
- iv. Daniel Morgan had visited the alleged drug dealer's house once;<sup>1001</sup>
- v. on one occasion she saw Daniel Morgan with a person whom she had heard was called Glenn. She said, '*Glen [sic] [was] doing the talking [...] Glen wasn't happy [...]*'.<sup>1002</sup> She identified Glenn as having a brother called Garry;
- vi. on the night Daniel Morgan was murdered, he was with Glenn in the Golden Lion public house. When asked to describe Daniel Morgan she said he was quite well built and quite smartly dressed. She was asked if there was anything distinctive about him and stated, '*apart from his watch I always remember the watch*'.<sup>1003</sup> She added that she knew that Daniel Morgan was investigating something to do '*with the wallpaper shop that was something to do with Glen [sic]*'.<sup>1004</sup>

590. The Abelard Two Investigation sought to verify Person B18's information, asking her for further information and making enquiries, over a long period but were unable to do so.<sup>1005</sup> Their efforts included checking the DNA of one individual whom she had named against the DNA available to the forensic scientists in connection with the murder. In April 2008, Jonathan Rees, barrister, advised that because of the inconsistencies in her evidence she should not be presented as a witness. On 10 December 2010, DI Douglas Clarke recorded that after consultation with the Crown Prosecution Service and Prosecution Counsel it had been decided that she was no longer required as part of the Prosecution case.

591. The evidence provided by Person B18 was extensive, and the Abelard Two Investigation was right to investigate what she had said thoroughly. Ultimately, both the Morgan One Investigation and the Abelard Two Investigation concluded that she was not a credible witness.

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998 Record of interview of Person B18, MPS005775001, p8, 19 July 2007.

999 Record of interview of Person B18, MPS005775001, p35, 19 July 2007.

1000 Record of interview of Person B18, MPS005775001, p35, 19 July 2007.

1001 Record of interview of Person B18, MPS005775001, p40, 19 July 2007.

1002 Record of interview of Person B18, MPS005775001, p9, 19 July 2007.

1003 Record of interview of Person B18, MPS075048001, p20, 19 July 2007.

1004 Transcript of interview of Person B18, MPS005775001, p34, 19 July 2007.

1005 Action A1537, MPS067669001, p4, 09 April 2008.



592. The decision not to treat Person B18 as a witness was reasonable. There were many discrepancies in the evidence which she supplied, she lacked coherence, responded to questions with confusion and was unable to remember relevant facts. Notwithstanding this, the Abelard Two Investigation was right to pursue her information initially because it may have provided evidence relevant to the investigation of Daniel Morgan's murder.

## 7 Report to the Crown Prosecution Service

593. On 13 June 2007, the Abelard Two Investigation submitted a report to the Crown Prosecution Service seeking advice as to whether five suspects, Jonathan Rees, Glenn Vian, Garry Vian, James Cook and former DS Sidney Fillery, should face criminal charges in connection with the murder of Daniel Morgan.<sup>1006</sup>

594. The report stated that '[...] *the catalyst for reopening the enquiry was the prospect of new evidence from resident informant James WARD*'.<sup>1007</sup> Acknowledging previous decisions that there had been insufficient evidence to prosecute following the Abelard One/Morgan Two Investigation,<sup>1008</sup> the report stated that the investigation:

*'has uncovered new and compelling evidence some of which places a different emphasis on previously known facts. The new evidence is broadly consistent with the findings on the previous phases of the investigation, it provides a strong motive not previously identified and clarifies the roles each of the suspects undertook. The motives previously submitted as precursor to this crime are still perfectly valid, particularly in respect of REES, they become a secondary, "welcome by-product" to the main motive.'*<sup>1009</sup>

### 7.1 Witness evidence addressed in the report

595. The report stated that two new witnesses, James Ward and Gary Eaton, had provided evidence that Glenn Vian, Garry Vian and James Cook were involved in the murder of Daniel Morgan, that Jonathan Rees had commissioned the murder, that former DS Sidney Fillery had been involved in covering it up, and that the evidence corroborated that of witnesses in earlier investigations, particularly that of Person F11.<sup>1010</sup> It then stated that the further evidence obtained by the Abelard Two Investigation had '*answered some of the sufficiency of evidence difficulties outlined in the [Abelard One/Morgan Two Investigation legal] advice*'.<sup>1011</sup> It stated the following:

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1006 Abelard Two Report, by DCS Dave Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p363, 13 June 2007.

1007 Abelard Two Report, by DCS Dave Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p180, 13 June 2007.

1008 Abelard Two Report, by DCS Dave Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p179, 13 June 2007.

1009 Abelard Two Report, by DCS Dave Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p8, 13 June 2007.

1010 Abelard Two Report, by DCS Dave Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p15, 13 June 2007.

1011 Abelard Two Report, by DCS Dave Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p179, 13 June 2007.

*'The new witnesses identified by Operation Abelard II do not confirm whether or not REES commissioned the murder. They do confirm that Glenn VIAN physically killed Daniel MORGAN in the manner described and the involvement of James COOK and his presence at the scene. They also provide evidence of Garry VIAN's involvement and presence at the scene. In addition, Gary EATON provides evidence supporting the involvement of FILLERY and REES.'*<sup>1012</sup>

596. The report acknowledged that a substantial part of Person F11's evidence had been published in a book<sup>1013</sup> and attributed to him.<sup>1014</sup> Such publication obviously had the potential to impact negatively on any information offered by a witness after its publication. It acknowledged that much of the information provided by James Ward was also in the public domain.<sup>1015</sup>

597. It was conceded that there was little evidence from the time to support directly Gary Eaton's allegations of James Cook's, Jonathan Rees's and DS Sidney Fillery's involvement in the illegal drugs trade. Intelligence had been gleaned from covert monitoring which indicated a propensity by former DS Sidney Fillery and Jonathan Rees to obtain information illegally from police computer systems and evidence of both men associating with persons involved in the illegal drugs trade.<sup>1016</sup>

598. The report said that Gary Eaton had identified where he parked his car in the car park of the Golden Lion public house and where he had said that he and Tony Airey<sup>1017</sup> had sat when they went into the bar.<sup>1018</sup>

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1012 Abelard Two Report, by DCS David Cook [Advice file: R.v.Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p15, 13 June 2007.

1013 *UNTOUCHABLES, Dirty cops, bent justice and racism in Scotland Yard*, by Michael Gillard and Laurie Flynn, 2004.

1014 Abelard Two Report, by DCS David Cook [Advice file: R.v.Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p257, 13 June 2007.

1015 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p224, 13 June 2007.

1016 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p235, 13 June 2007.

1017 Gary Eaton's friend.

1018 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp237-238, 13 June 2007.

599. This did not reflect the inconsistencies in evidence available to the police. A police review of Gary Eaton's evidence suggested that he had placed his car in three different positions in the car park.<sup>1019</sup> The second position, described as '*behind the brick building*' was not possible when examined against scene photographs and the original sketch of the car park.<sup>1020</sup> An analysis document on Gary Eaton's debrief recorded that, '[d]uring his de-brief [Gary Eaton] describes a number of possible locations where he and AIREY were seated'.<sup>1021</sup>

Moreover, the Abelard Two Investigation had established that Gary Eaton knew that Tony Airey was dead, and that although he (Gary Eaton) had said that Tony Airey's wife was also dead, she was still alive. The Abelard Two Investigation had also been unable to find any evidence to corroborate the suggestion that Gary Eaton and Tony Airey had been in the Golden Lion public house on the night of the murder.

600. The report said that on 12 February 2007, Gary Eaton had attended an '*ID parade*' where present-day likenesses of Glenn Vian and Garry Vian had been viewed. The report stated that Gary Eaton had failed to identify the Vian brothers but that he '*afterwards informed the de-brief officers that he thought the appropriate numbers were the brothers*',<sup>1022</sup> adding he had not wanted to say so in case he made a mistake. The report said that a statement about this had been requested from DS Anthony Moore. The report stated that the police were attempting to locate useable photographs of the Vian brothers taken around the date of Daniel Morgan's murder to complete another '*ID parade*'.<sup>1023</sup>

601. The report nevertheless concluded that '*Scott*' and '*Glenn*', as described in Gary Eaton's statement, were '*undoubtedly*' the brothers Glenn Vian and Garry Vian, despite the difficulties he had in identifying them.<sup>1024</sup>

602. There was no justification for the definitive conclusion that '*Scott*' and '*Glenn*' were '*the brothers*' Glenn Vian and Garry Vian, or that Gary Eaton was telling the truth when he said he had seen them at the murder scene on the night of the murder.

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1019 Report collating movements and accounts of individuals from the Golden Lion public house on 10.03.1987, MPS008484001, p13, undated.

1020 Report collating movements and accounts of individuals from the Golden Lion public house on 10.03.1987, MPS008484001, p13, undated.

1021 Summary of analysis debriefs in relation to Morgan, MPS102820001, p2, undated.

1022 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p240, 13 June 2007.

1023 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p240, 13 June 2007.

1024 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p240, 13 June 2007.

603. The report provided a comprehensive account of the evidence provided over the years by other witnesses, including Person S15,<sup>1025</sup> Kevin Lennon,<sup>1026</sup> Person P9,<sup>1027</sup> former Police Officer N21,<sup>1028</sup> Paul Goodridge,<sup>1029</sup> Margaret Harrison,<sup>1030</sup> and evidence provided by witnesses at the Golden Lion public house on the night of the murder implicating the suspects.<sup>1031</sup>

604. The report addressed the visit to the Golden Lion public house on 09 March 1987 by DS Sidney Fillery and members of the Catford Crime Squad, and the presence of Daniel Morgan and Jonathan Rees on the night of 09 March 1987:

*'Circumstantially the events of Monday 9th March 1987 cannot be discounted. The evidence shows it is unusual for REES let alone MORGAN to visit The Golden Lion, yet they did drink there on two consecutive nights.'*<sup>1032</sup>

605. In a report of further evidence submitted to the Crown Prosecution Service in December 2007, it was stated that:

*'Sidney FILLERY clearly contrived the meeting at the Golden Lion on 9th March 1987. He solicited the crime squad to attend by announcing his intentions to go there after the debrief of the Clapton murder. Fillery specifically left the bar and brought back Daniel MORGAN and William Jonathan REES from their usual haunt, the Dolphin Public House to the Golden Lion that night. [...]*

*'The timing of the meeting above and the timing of the murder is particularly worth mentioning as Sidney FILLERY had just completed one murder enquiry so his team were albeit [sic] guaranteed to be seconded to the MORGAN enquiry. Had the murder occurred in the normal public houses (Thornton Heath) frequented by MORGAN then Sidney FILLERY would not have been seconded to the investigative team. If FILLERY was to assist his close friend then the importance attached to his availability cannot be understated.'*<sup>1033</sup>

## 7.2 Forensic and technical evidence

606. The report articulated concerns about missing exhibit books; the lack of documentary continuity; and the fact that the way in which the exhibits seized during the Morgan One Investigation had been preserved and packaged did not appear to have been done in a manner likely to preserve DNA for future analysis. The report stated, '[s]tandards of preservation of the

1025 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp244-248, 13 June 2007.

1026 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp248-254, 13 June 2007.

1027 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp254-256, 13 June 2007.

1028 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp258-262, 13 June 2007.

1029 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp277-279, 13 June 2007.

1030 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p281, 13 June 2007.

1031 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp267-270, pp273-276, pp279-283, pp285-288, pp293-294, pp296-297, p300 13 June 2007.

1032 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p358, 13 June 2007.

1033 Report to the Crown Prosecution Service regarding further evidence against Sidney Fillery in the murder of Daniel Morgan, MPS072381001, p7, paras 20-21, 18 December 2007.

*exhibits in 1987 were entirely different to today's standards. Therefore, many of the exhibits were not packaged in accordance within the current expectations. DNA was in its infancy and revolved around blood grouping.*<sup>1034</sup>

607. Forensic analysis carried out during the Abelard Two Investigation had not placed any of the suspects at the scene, but further DNA analysis of the axe was in progress at the time of the report.<sup>1035</sup>

608. The evidence from the covert monitoring had provided no clear evidence implicating either Glenn Vian or Garry Vian in Daniel Morgan's murder, although there were a substantial number of tangential, potential or actual references to Daniel Morgan's murder captured in the probes which, the report argued, provided a picture which suggested their potential involvement.<sup>1036</sup> This evidence was used to support the case against Glenn Vian (see section 5.1 above).

609. The report analysed the case against each of the five Defendants.

### **7.3 The case against Glenn Vian**

610. The report noted:

- i. James Ward, Gary Eaton and Person F11 were the main providers of information against Glenn Vian, naming him as the man who murdered Daniel Morgan.<sup>1037</sup>
- ii. There was evidence of Glenn Vian's propensity for violence as obtained from probe evidence.<sup>1038</sup> The report also noted that the evidence contained in the probe material gathered from 1999, 2002, and 2006 deployments, '*clearly supports the evidence of key witnesses that Glenn VIAN was involved with others in the murder of Daniel MORGAN*'.<sup>1039</sup>
- iii. Glenn Vian reacted to media coverage about the case and whenever anyone else was arrested, Glenn Vian was concerned that they might implicate him.<sup>1040</sup>
- iv. Glenn Vian had not disclosed a credible alibi in the probes.<sup>1041</sup>
- v. Glenn Vian could not be eliminated by DNA evidence, nor could he be implicated. He had expressed concerns that the police or Jonathan Rees might plant his DNA.<sup>1042</sup>

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1034 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp183-185, 13 June 2007.

1035 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp185-192, 13 June 2007.

1036 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp192-218, 13 June 2007.

1037 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p344, 13 June 2007.

1038 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p346, 13 June 2007.

1039 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p347, 13 June 2007.

1040 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p347, 13 June 2007.

1041 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p348, 13 June 2007.

1042 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p348, 13 June 2007.



- vi. Glenn Vian had attended the Royal Courts of Justice with Jonathan Rees on 05 March 1987 (five days prior to Daniel Morgan's death) in connection with the civil claim against Southern Investigations for loss of takings from the Belmont Car Auctions (see Chapter 1, The Morgan One Investigation), and they had told the lawyer representing Southern Investigations that they were going to the Golden Lion public house after the proceedings that day.<sup>1043</sup>

## 7.4 The case against Garry Vian

611. The report noted:

- i. James Ward and Gary Eaton had provided direct evidence that Garry Vian was present at the scene.<sup>1044</sup>
- ii. James Ward had stated, however, that Garry Vian had said that he was in a separate car, whereas Gary Eaton stated that he was in the same car as James Cook.<sup>1045</sup>
- iii. According to James Ward, Garry Vian had said that the motive for the murder was an affair with a woman identified as Margaret Harrison.<sup>1046</sup>
- iv. Person S15 had stated that Garry Vian had told him that Daniel Morgan was murdered because he was investigating Garry Vian for drugs.<sup>1047</sup>

## 7.5 The case against James Cook

612. The report noted:

- i. Gary Eaton, Person F11 and Person S15 all provided evidence that James Cook was the driver of the car used by those involved in the murder.<sup>1048</sup> The report also cited probe evidence from the Abelard One/Morgan Two Investigation.<sup>1049</sup>

## 7.6 The case against Jonathan Rees

613. The report noted:

- i. Jonathan Rees had '*more motive than most*' for wanting Daniel Morgan killed. It referred to the Belmont Car Auctions robbery, Jonathan Rees's affair with Margaret Harrison and Jonathan Rees's alleged involvement with DS Sidney Fillery and James Cook in drug crime.<sup>1050</sup>

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1043 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p348, 13 June 2007.

1044 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p349, 13 June 2007.

1045 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p349, 13 June 2007.

1046 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p349, 13 June 2007.

1047 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p349, 13 June 2007.

1048 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p352, 13 June 2007.

1049 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p353, 13 June 2007.

1050 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp354-355, 13 June 2007.

- ii. Kevin Lennon had said that Jonathan Rees arranged to have Daniel Morgan killed and Jonathan Rees asked Kevin Lennon to assist.<sup>1051</sup>
- iii. There was a possibility that the murder had originally been planned for 09 March 1987.<sup>1052</sup>
- iv. It argued that Jonathan Rees had brought Daniel Morgan to his death at the Golden Lion public house on 10 March 1987.<sup>1053</sup>
- v. Paul Goodridge had not attended the Golden Lion public house on 10 March 1987 and had denied that any meeting had been arranged.<sup>1054</sup>
- vi. Jonathan Rees had lied about his movements on 10 March 1987, had withheld key information in his first statement to the Morgan One enquiry, and had subsequently fed inaccurate information into the Morgan One enquiry.<sup>1055</sup>
- vii. Probe evidence indicated that Jonathan Rees had access to police computers and that, among other activities, on one occasion he had warned the Vians that Glenn Vian and James Cook were potentially under police surveillance.<sup>1056</sup>

## 7.7 The case against former DS Sidney Fillery

614. The report noted:

- i. The events of Monday 09 March 1987 were important in the case against former DS Sidney Fillery.<sup>1057</sup> The report discussed the circumstances of the meeting at the Golden Lion public house the night before the murder, along with other significant meetings including a meeting at the Prince of Wales public house on 13 March 1987.<sup>1058</sup>
- ii. Gary Eaton had said that he had been threatened by DS Fillery and told not to speak of the murder. The report noted that many allegations relating to former DS Fillery's wider, drug-related crime could not be proven, nor could they be discounted.<sup>1059</sup>

615. The report stated:

*'The new evidence is primarily from two resident informants and it is appreciated that many difficulties exist when relying on such persons at trial. However a great deal of effort has been directed at verifying their accounts and their criminal history,*

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1051 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p355, 13 June 2007.

1052 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p356, 13 June 2007.

1053 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p356, 13 June 2007.

1054 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p357, 13 June 2007.

1055 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp357-358, 13 June 2007.

1056 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p358, 13 June 2007.

1057 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p358, 13 June 2007.

1058 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p359, 13 June 2007.

1059 Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p360, 13 June 2007.

*the majority of their respective accounts has been corroborated and significant extra charges have been preferred against them. [...]*

*'The evidence provided by WARD and EATON tends to support each other and is further supported by [Person S15], [Person F11] and others. Their evidence is consistent with the previously established facts albeit they provide for a different interpretation as to a primary motive'.<sup>1060</sup>*

The report concluded: *'[i]t is considered that the evidence obtained in this case is stronger in respect of conspiracy to murder against all parties rather than against any individual'.<sup>1061</sup>*

616. The police file contained no information about the various breaches of the sterile corridor between the debrief of Gary Eaton and the Abelard Two Investigation, which had occurred prior to June 2007, many of which had involved DCS David Cook. This omission meant that the evidence could not be properly assessed by Counsel. The breach of the sterile corridor significantly compromised the credibility of the evidence obtained by the Abelard Two Investigation.

617. The Crown Prosecution Service asked Jonathan Rees, barrister (who, with Orlando Pownall QC, had advised in 2003 that there was insufficient evidence to prosecute Jonathan Rees, Glenn Vian or James Cook with any offence related to the murder of Daniel Morgan),<sup>1062</sup> to consider the contents of the Abelard Two advice file, together with certain other documents, and advise on whether charges should be brought against any, or all, of the proposed suspects.<sup>1063</sup>

## **7.8 Advice by Counsel on the evidence submitted prior to the arrests in April 2008**

618. The report which Jonathan Rees, barrister, received did not contain any reference to any unauthorised contact between DCS David Cook and any of the witnesses. Accordingly, the file was incomplete and misleading.

619. Having received the report to the Crown Prosecution Service, Jonathan Rees, barrister, sought further information and had meetings with the Abelard Two Investigation, as a consequence of which he received further material and a further report and accompanying material in relation to former DS Sidney Fillery.

620. Jonathan Rees, barrister, assessed the credibility of the new proposed witnesses, James Ward, Gary Eaton, Person S15 and Person X8, and considered the extent to which the evidence of these and other witnesses was corroborative.

<sup>1060</sup> Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, p342, 13 June 2007.

<sup>1061</sup> Abelard Two Report, by DCS David Cook [Advice file: R.v. Glenn Vian, Garry Vian, James Cook, William Rees & Sidney Fillery], MPS103338001, pp362-363, 13 June 2007.

<sup>1062</sup> Crown Prosecution Service Advice by Orlando Pownall QC and Jonathan Rees re Operation Morgan II, MPS109438001, undated.

<sup>1063</sup> Counsel Advice by Jonathan Rees, MPS109700001, p4, para 1.2, 15 April 2008.

### 7.8.1 Advice in respect of James Ward

621. In respect of James Ward, Jonathan Rees, barrister, noted that on the basis of the information which he had received, the following:

- i. There were discrepancies in the development of James Ward's evidence, including differing accounts given by him in 1999, that he had no significant knowledge of the murder, and in 2006 when he gave an account of how Glenn Vian admitted killing Daniel Morgan.<sup>1064</sup>
- ii. William Newton had given different versions of his conversation with James Ward about Daniel Morgan's murder in 1999 and 2002, and James Ward was disputing William Newton's story.<sup>1065</sup>
- iii. There were differences between the account given verbally by James Ward in January 2006 of how Glenn Vian had admitted killing Daniel Morgan and his subsequent statement.<sup>1066</sup>
- iv. James Ward had admitted lying on oath during his trial in 2005, and his relationship with Glenn Vian and Garry Vian had soured during that trial, and it could be suggested that this provided him with a motive to falsely incriminate them.<sup>1067</sup>
- v. There could be little doubt that the main reason why James Ward assisted the Abelard Two Investigation was the prospect of a significant reduction in his prison sentence, which might have some impact on his credibility as a witness.<sup>1068</sup> James Ward had previously provided evidence against others to gain such a benefit. He also had a substantial criminal history and had previously denied knowledge of Daniel Morgan's murder.
- vi. However, Jonathan Rees, barrister, said that James Ward had '*on the whole, provided a coherent and consistent account in the course of the debriefing procedure*'.<sup>1069</sup> He also noted that support for his account could be found in other potential new witnesses<sup>1070</sup> and the probe evidence.<sup>1071</sup>
- vii. Jonathan Rees, barrister, concluded: '*Taking an overall view of the quality of [James Ward] as a potential witness, I agree with the police assessment of him at paragraph 873 of the report where it is stated that "evidence from [James Ward] in isolation is unlikely to be sufficient to prosecute this case"*'.<sup>1072</sup>

622. James Ward was listed as a witness for the forthcoming trial.

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1064 Counsel Advice by Jonathan Rees, MPS109700001, p61, 15 April 2008.

1065 Counsel Advice by Jonathan Rees, MPS109700001, pp59-60, 15 April 2008.

1066 Counsel Advice by Jonathan Rees, MPS109700001, p61, 15 April 2008.

1067 Counsel Advice by Jonathan Rees, MPS109700001, p58, 15 April 2008.

1068 Counsel Advice by Jonathan Rees, MPS109700001, p57, 15 April 2008.

1069 Counsel Advice by Jonathan Rees, MPS109700001, p62, para 5.2.4 (a), 15 April 2008.

1070 Counsel Advice by Jonathan Rees, MPS109700001, p62, para 5.2.4 (b), 15 April 2008.

1071 Counsel Advice by Jonathan Rees, MPS109700001, p62, para 5.2.4 (c), 15 April 2008.

1072 Counsel Advice by Jonathan Rees, MPS109700001, p63, para 5.2.5, 15 April 2008.

### 7.8.2 Advice in respect of Gary Eaton

623. Jonathan Rees, barrister, had considerable reservations about Gary Eaton even before he became aware of the extent of the contact which had occurred between DCS David Cook and Gary Eaton. He noted, on the basis of the information which he had received, the following:

- i. Gary Eaton was a free man, not currently under investigation, who would not have been convicted had he not admitted fully and freely his criminal activities.<sup>1073</sup>
- ii. It seemed that he had offered to give evidence because James Cook had recently threatened him and had visited Person G23's place of work to ensure that Gary Eaton did not tell police what he knew about the murder of Daniel Morgan. There was also a suggestion that James Cook had made a lot of money through his and Gary Eaton's joint criminal activity, and James Cook had involved Gary Eaton's son in drug-dealing.<sup>1074</sup>
- iii. There were a considerable number of inconsistencies and contradictions in Gary Eaton's evidence.<sup>1075</sup> When comparing Gary Eaton's final account of events and the transcripts of early meetings, his story changed significantly in a number of important respects such as his reason for contacting Michael Sullivan of *The Sun* newspaper (see paragraphs 312-313 above), his initial claim that he did not know who was responsible for the murder, and how he had acquired knowledge of the murder.<sup>1076</sup>
- iv. There were numerous instances of Gary Eaton seeking to postpone discussion of certain topics.<sup>1077</sup>
- v. There were aspects of the debriefing process which were likely to be raised during cross-examination of Gary Eaton. For example, on 01 November 2006, Gary Eaton had said that he '*had a discussion with Dave COOK's team...quite a lot of discussions yeah off tape*'.<sup>1078</sup> He continued, '*I mean a lot of that was in cars, driving up and down the bloody motorway here there and everywhere you know what I mean.*'<sup>1079</sup> On 17 January 2007, Gary Eaton had said, '*[t]hat's what I'm saying, that Investigation Team, a lot of them discussions we had should never have happened*'.<sup>1080</sup>
- vi. On 19 October 2006, '*one of the debriefing officers let slip that the person [that Gary Eaton] had referred to as Scott [...] was, in fact, called Gary [sic]*'.<sup>1081</sup>
- vii. The account given by Gary Eaton that he was invited to the Golden Lion public house by James Cook to guarantee his silence by indirectly involving him in the events of 10 March 1987 and/or warning him that the same fate might befall him, had the potential to undermine Gary Eaton's credibility for a number of reasons, including the fact that it was difficult to see why James Cook should use such a complicated way of trying to ensure Gary Eaton's silence, and it gave Gary Eaton more information to use against James Cook if he chose to do so.<sup>1082</sup>

1073 Counsel Advice by Jonathan Rees, MPS109700001, p63, para 5.3.1, 15 April 2008.

1074 Counsel Advice by Jonathan Rees, MPS109700001, pp64-65, para 5.3.3 (a)-(c), 15 April 2008.

1075 Counsel Advice by Jonathan Rees, MPS109700001, pp65-70, 15 April 2008.

1076 Counsel Advice by Jonathan Rees, MPS109700001, pp65-67, para 5.3.5 (a)-(c), 15 April 2008.

1077 Counsel Advice by Jonathan Rees, MPS109700001, pp68-69, para 5.3.5 (g), 15 April 2008.

1078 Counsel Advice by Jonathan Rees, MPS109700001, pp69-70, para 5.3.5 (i), 15 April 2008.

1079 Counsel Advice by Jonathan Rees, MPS109700001, pp69-70, para 5.3.5 (i), 15 April 2008.

1080 Counsel Advice by Jonathan Rees, MPS109700001, pp69-70, para 5.3.5 (i), 15 April 2008.

1081 Counsel Advice by Jonathan Rees, MPS109700001, pp69-70, para 5.3.5 (i), 15 April 2008.

1082 Counsel Advice by Jonathan Rees, MPS109700001, pp70-71, para 5.3.6, 15 April 2008.



- viii. Commenting on the video made on the occasion when Gary Eaton visited the Golden Lion public house with members of the debriefing team on 15 November 2006, Jonathan Rees, barrister, said that it was likely that this would be used as a basis for suggesting that Gary Eaton had been involved in the plan to kill Daniel Morgan, and that his involvement formed a significant part of his motivation for coming forward when he did.<sup>1083</sup>
- ix. However, his account was supported by other witnesses, especially James Ward, Person S15 and Person X8.<sup>1084</sup>
- x. Gary Eaton was ‘a relatively promising prospect as a witness notwithstanding his appalling criminal history’,<sup>1085</sup> but he was ‘not a very impressive witness and one would not consider charging any person were his evidence effectively to stand alone or with weak support’.<sup>1086</sup>
- xi. In the document prepared for the judge sentencing Gary Eaton, DCS David Cook stated that ‘I have been able to verify a substantial amount of the information provided by Gary [Eaton] during the course of his debrief. I can find no evidence or information which at this time would undermine anything he has admitted to or would suggest in any way that he has not been fully truthful.’<sup>1087</sup> Jonathan Rees, barrister, said that he had been told that DCS Cook ‘stands by this statement’.<sup>1088</sup>

624. DCS David Cook’s statement that he could find no evidence to suggest that Gary Eaton had not been fully truthful is demonstrably untrue. DCS Cook knew by the time of this statement that Gary Eaton had not been fully truthful. For example, he had initially said that he did not know who murdered Daniel Morgan, and that he did not know anything about the men whom DCS Cook had referred to as ‘the brothers’. However, his evidence later recorded that he had been present at the scene of the murder, after Daniel Morgan had died, and that Glenn Vian had murdered Daniel Morgan and that Garry Vian had also been there.

In January 2021, former DCS Cook told the Panel that any statement made by him throughout these matters has been made in the honest belief that it was true and accurate.

625. Gary Eaton was listed as a witness for the forthcoming trial.

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1083 Counsel Advice by Jonathan Rees, MPS109700001, p71, para 5.3.7, 15 April 2008.

1084 Counsel Advice by Jonathan Rees, MPS109700001, p64, para 5.3.2 (a), 15 April 2008.

1085 Counsel Advice by Jonathan Rees, MPS109700001, p63, para 5.3.1, 15 April 2008.

1086 Counsel Advice by Jonathan Rees, MPS109700001, pp71-72, para 5.3.9, 15 April 2008.

1087 Counsel Advice by Jonathan Rees, MPS109700001, p64, para 5.3.2 (d), 15 April 2008.

1088 Counsel Advice by Jonathan Rees, MPS109700001, p64, para 5.3.2 (d), 15 April 2008.

### 7.8.3 Advice in respect of Person S15

626. In respect of Person S15, Jonathan Rees, barrister, noted, on the basis of the information which he had received, the following:

- i. In his statement of November 2006, Person S15 had said that Garry Vian was concerned that James Cook *'could become an informant against them [the other Defendants] as [James] Cook was only involved as the driver'*.<sup>1089</sup> This was significant because it was partly supported by evidence from the probe material, which indicated, for example, that in August 1999, Jonathan Rees and Glenn Vian had been concerned about James Cook being an informant.<sup>1090</sup>
- ii. Person S15's statement was consistent with information provided by other witnesses *'although the evidence regarding the apparent motive for the murder is not all one way'*.<sup>1091</sup>
- iii. Despite his interest in the £50,000 reward, Person S15's relative lack of involvement in criminal activity meant that there was apparently not a great deal of material which would undermine his credibility.<sup>1092</sup>

627. Person S15 was listed as a witness for the forthcoming trial.

628. In a later, related, High Court case (see Chapter 9, Post-Abelard Two), Mr Justice Mitting found that Person S15's evidence *'was admissible evidence of participation in murder by Garry Vian. It was suggested to [A/DCI Noel] Beswick that because of the circumstances and the place in which [Person S15] lived, it would not have been possible to secure his attendance at trial. Beswick refuted that suggestion, because [Person S15] had voluntarily come to the United Kingdom to sign his witness statement. I accept that evidence and see no reason to doubt that he would have been willing to give evidence at trial, either in person or by live link under s32 Criminal Justice Act 1988.'*<sup>1093</sup>

### 7.8.4 Advice in respect of Person X8

629. In respect of Person X8, Jonathan Rees, barrister, noted, on the basis of the information which he had received, the following:

- i. Person X8 had an appalling criminal record and was serving a total sentence of 15 years' imprisonment for offences involving robbery, firearms and manslaughter.<sup>1094</sup>
- ii. Person X8 had said in a statement made in February 1989 that he had not known Daniel Morgan and that there was nothing he could say that would assist the police.<sup>1095</sup>
- iii. Person X8 was *'very close to the Vian family and the other suspects in this case [...], he has chosen not to embark upon the sort of debriefing process which [James Ward] and [Gary Eaton] chose. Although, it is difficult to judge whether the suspects know anything that could significantly damage [Person X8]'s credibility [...]*'.<sup>1096</sup>

1089 Counsel Advice by Jonathan Rees, MPS109700001, p72, para 5.4.1, 15 April 2008.

1090 Counsel Advice by Jonathan Rees, MPS109700001, p72, para 5.4.1, 15 April 2008.

1091 Counsel Advice by Jonathan Rees, MPS109700001, p72, para 5.4.2, 15 April 2008.

1092 Counsel Advice by Jonathan Rees, MPS109700001, p72, para 5.4.2, 15 April 2008.

1093 Ruling of Mr Justice Mitting, MPS109702001, p14, para 58, 17 February 2017.

1094 Counsel Advice by Jonathan Rees, MPS109700001, p73, para 5.5.1, 15 April 2008.

1095 Counsel Advice by Jonathan Rees, MPS109700001, p73, para 5.5.2 (a), 15 April 2008.

1096 Counsel Advice by Jonathan Rees, MPS109700001, p74, para 5.5.3, 15 April 2008.

- iv. Person X8 had not chosen to be debriefed as an Assisting Offender. He did not seek a reduction in his sentence.<sup>1097</sup>

630. Jonathan Rees, barrister, noted that:

- i. James Ward had *'told police that Garry Vian had warned him to watch what he said to [Person X8] because he ([Person X8]) knew things about the Morgan murder'*;<sup>1098</sup>
- ii. the only thing which Person X8 had to gain from assisting the police was a potential share in the reward money (which he had rejected on 06 August 2003) and *'an element of protection from Glen [sic] Vian, Rees and Cook'*.<sup>1099</sup>

631. Person X8 was listed as a witness for the forthcoming trial.

### 7.8.5 Advice in respect of other witnesses

632. Jonathan Rees, barrister, did not analyse Person F11 or Person P9 as possible witnesses, although he did consider their evidence, as appropriate, when analysing the case against each of the suspects. Of former Police Officer N21, Jonathan Rees, barrister, said that he had a history of giving false evidence and would make *'an extremely poor witness'*.<sup>1100</sup>

## 7.9 The barrister's consideration of the evidence

633. Jonathan Rees, barrister, then considered the evidence, including evidence from the covert audio recordings, against each of the five Defendants.

634. In respect of Glenn Vian, he wrote the following:

- i. Gary Eaton said that he was at the Golden Lion public house on the evening of 10 March 1987 and had seen Daniel Morgan there; that he had later gone into the car park at the request of a man whom he believed was called 'Scott' (Garry Vian) and had seen Glenn Vian in the front passenger seat of a stationary car close to Daniel Morgan's body, that James Cook had been in the driver's seat and that 'Scott' had got into the rear seat.<sup>1101</sup> Gary Eaton had not been able to identify Garry Vian as the person he had called 'Scott', or Glenn Vian, at a recent identification procedure (see paragraph 600 above).
- ii. Person F11 had said that James Cook had told him that he (James Cook) had been the driver, and a man called 'Glenn Vines' had committed a murder by striking the victim in the head with an axe. Daniel Morgan had been killed because of an argument between him and Jonathan Rees, and Jonathan Rees had paid for the murder.<sup>1102</sup>

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1097 Counsel Advice by Jonathan Rees, MPS109700001, p75, para 5.5.4(a), 15 April 2008.

1098 Counsel Advice by Jonathan Rees, MPS109700001, p75, para 5.5.4(b), 15 April 2008.

1099 Counsel Advice by Jonathan Rees, MPS109700001, p75, para 5.5.4 (a), 15 April 2008.

1100 Counsel Advice by Jonathan Rees, MPS109700001, pp53-54, para 4.6.8.1, 15 April 2008.

1101 Counsel Advice by Jonathan Rees, MPS109700001, p26, para 4.2.1.2, 15 April 2008.

1102 Counsel Advice by Jonathan Rees, MPS109700001, p28, para 4.2.4.2, 15 April 2008.

- iii. However, Jonathan Rees, barrister, noted that Person F11 was a former drug-supplier who saw James Cook as a rival. He also noted:
  - a. *In 1999 Person F11 had been convicted of soliciting James Cook's murder. His seven-year sentence had been reduced to five years, after he had provided information about the murder of Daniel Morgan and other matters.*
  - b. *Person F11 said that he was threatened by James Cook and Glenn Vian that if he ever said anything about the murder, Glenn Vian would kill him and his family.*
  - c. *There was nothing to suggest that Person F11 was coached in connection with his account.*
  - d. *He had later claimed he had made this statement under duress and refused to give evidence.*<sup>1103</sup>
- iv. James Ward said that Glenn Vian had 'effectively' admitted to killing Daniel Morgan with an axe for £20,000 or £25,000.<sup>1104</sup>
- v. Person X8 had said that Glenn Vian had told him that he was owed £8,000 for the job. Person X8 had said that, weeks later, he had seen Glenn Vian pick up an envelope from Jonathan Rees that contained thousands of pounds and was the final instalment for the murder.<sup>1105</sup>
- vi. James Ward had said that the murder of Daniel Morgan had cost significantly less than another proposed murder, because it had occurred many years previously. James Ward had said that Glenn Vian had said that the reward of £50,000 offered by police for information about Daniel Morgan's murder was '*twice the money they got for doing it*'.<sup>1106</sup>
- vii. In the covert audio recordings, Glenn Vian had been heard talking about the prospect that he might be linked to the killing through his DNA.<sup>1107</sup>

635. In respect of Garry Vian, Jonathan Rees, barrister, said the following:

- i. James Ward had said that Garry Vian admitted to being at the scene of the murder;<sup>1108</sup> that Garry Vian and Glenn Vian had been paid £20,000 or £25,000 for the murder;<sup>1109</sup> and that they had become involved because Jonathan Rees was married to their sister.<sup>1110</sup>
- ii. James Ward had said that Garry Vian had said that Daniel Morgan was never going to be threatened, he was always going to be killed.<sup>1111</sup>

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1103 Counsel Advice by Jonathan Rees, MPS109700001, p56-57, para 5.1, and p32, para 4.3.1.2(c), 15 April 2008.

1104 Counsel Advice by Jonathan Rees, MPS109700001, p27, para 4.2.2.1, 15 April 2008.

1105 Counsel Advice by Jonathan Rees, MPS109700001, pp27-28, para 4.2.3.1, 15 April 2008.

1106 Counsel Advice by Jonathan Rees, MPS109700001, p27, para 4.2.2.1(a)-(c), 15 April 2008.

1107 Counsel Advice by Jonathan Rees, MPS109700001, pp29-30, para 4.2.5.1(c)-(d), 15 April 2008.

1108 Counsel Advice by Jonathan Rees, MPS109700001, p31, para 4.3.1.1, 15 April 2008.

1109 Counsel Advice by Jonathan Rees, MPS109700001, pp31-32, para 4.3.1.1(c), 15 April 2008.

1110 Counsel Advice by Jonathan Rees, MPS109700001, pp31-32, para 4.3.1.1(b), 15 April 2008.

1111 Counsel Advice by Jonathan Rees, MPS109700001, p33, para 4.3.1.1(f), 15 April 2008.

- iii. Person S15 had said that Daniel Morgan was murdered because he was investigating Garry Vian and others who were involved in drugs.<sup>1112</sup>
- iv. Person S15 had said that Garry Vian was present when Daniel Morgan was murdered and was involved in the killing.<sup>1113</sup>
- v. Gary Eaton had said that a man he believed was called 'Scott' had told him that James Cook wanted a word with him in the car park, and he followed 'Scott' outside and saw him getting into the car with Glenn Vian and James Cook.<sup>1114</sup>
- vi. However, James Ward recalled Garry Vian saying that he drove the second car on the night of the murder,<sup>1115</sup> contradicting what Gary Eaton said about 'Scott' getting into the car with Glenn Vian and James Cook.<sup>1116</sup>
- vii. Person X8 had said that Garry Vian was not involved (but then went on to cast doubt as to whether this was a genuine comment).<sup>1117</sup>

636. In respect of Jonathan Rees, he said the following:

- i. Jonathan Rees had been recorded on 05 July 1999 saying that '[t]he coup the Met had was to get Kev Lennon on their side'. On 18 August 1999, Jonathan Rees was recorded asking former DS Alec Leighton to persuade Kevin Lennon to say that he had been put under pressure to make a statement and had been threatened with a long time in prison if he did not do so. They discussed offering Kevin Lennon a 'few grand' to do this for the purposes of Jonathan Rees's civil action against Hampshire Constabulary but agreed that Kevin Lennon could not be trusted.<sup>1118</sup>
- ii. Jonathan Rees had played a part in arranging for Daniel Morgan to be at the Golden Lion public house on the night he was murdered.<sup>1119</sup>
- iii. Jonathan Rees had told a number of lies in the various accounts he had given since the murder.<sup>1120</sup>
- iv. Gary Eaton had said that Jonathan Rees had been in the bar of the Golden Lion public house on the night of the murder with a woman, had left the bar, returning shortly thereafter and then had left again 20 minutes later, for at least ten minutes, and returned with another man.<sup>1121</sup>
- v. Kevin Lennon had provided evidence on 04 September 1987 about how Jonathan Rees had grown to hate Daniel Morgan and had spoken of wanting to kill him. Jonathan Rees had asked Kevin Lennon to find someone to kill Daniel Morgan

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1112 Counsel Advice by Jonathan Rees, MPS109700001, pp33-34, para 4.3.2.1(a), 15 April 2008.

1113 Counsel Advice by Jonathan Rees, MPS109700001, pp33-34, para 4.3.2.1(b), 15 April 2008.

1114 Counsel Advice by Jonathan Rees, MPS109700001, p31, para 4.3.1.2, 15 April 2008.

1115 Counsel Advice by Jonathan Rees, MPS109700001, pp33-34, para 4.3.1.1(b), 15 April 2008.

1116 Counsel Advice by Jonathan Rees, MPS109700001, p31, para 4.3.1.2, 15 April 2008.

1117 Counsel Advice by Jonathan Rees, MPS109700001, pp76-77, para 5.6.2(a), 15 April 2008.

1118 Counsel Advice by Jonathan Rees, MPS109700001, p41, para 4.5.5.1, 15 April 2008.

1119 Counsel Advice by Jonathan Rees, MPS109700001, p39, para 4.5.1, 15 April 2008.

1120 Counsel Advice by Jonathan Rees, MPS109700001, pp42-49, para 4.5.6, 15 April 2008.

1121 Counsel Advice by Jonathan Rees, MPS109700001, p39, para 4.5.2.1, 15 April 2008.



on at least two occasions but had later told Kevin Lennon to forget about this request because he knew police officers at Catford who were capable and willing to organise it.<sup>1122</sup>

- vi. Person X8 had said that he had seen Jonathan Rees counting large sums of money from or into a brown envelope which he later handed to Glenn Vian, weeks after Glenn Vian had told Person X8 that he had murdered Daniel Morgan.<sup>1123</sup>

637. In respect of James Cook, Jonathan Rees, barrister, said the following:

- i. Gary Eaton's evidence was that James Cook had tried to recruit Gary Eaton to kill Daniel Morgan for all or part of £50,000 and he had refused. James Cook had told Gary Eaton that Daniel Morgan had found out about his (James Cook's) involvement in drugs crime and the involvement of Jonathan Rees and Southern Investigations in laundering the proceeds.<sup>1124</sup>
- ii. Gary Eaton's evidence was that he had been at the Golden Lion public house on the night of the murder and had seen James Cook there.<sup>1125</sup>
- iii. Person F11 said that James Cook had told him that he was the driver.<sup>1126</sup>
- iv. Gary Eaton had said that he had seen James Cook in the car park of the Golden Lion public house when Daniel Morgan was murdered, in a car close to the body of Daniel Morgan. James Cook had winked at Gary Eaton before driving off. Glenn Vian was in the passenger seat.<sup>1127</sup>
- v. Person F11 had said that James Cook had told him that the car had been hidden in a garage used by Person P9 and later they had destroyed it.<sup>1128</sup>
- vi. Person F11 had said that James Cook had tried to recruit Person F11 to kill Person P9, after Person P9 had found out about the link between the car he had looked after and the murder.<sup>1129</sup>
- vii. After Person P9 had been arrested on 03 October 2002, a conversation between James Cook and Person D28 and Person D29 had been recorded, which appeared to be about Person D28 and Person D29 providing James Cook with a false alibi for the night of the murder. Person D28 and Person D29 had subsequently made witness statements on 27 November 2002 providing James Cook with an alibi.<sup>1130</sup> However, Jonathan Rees, barrister, noted that Person P9 had been arrested in connection with the murder on 03 October 2002, and during a lavatory break had told police that on the night of the murder James Cook had met him in a restaurant and told him that he

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1122 Counsel Advice by Jonathan Rees, MPS109700001, p40, para 4.5.3.2, 15 April 2008.

1123 Counsel Advice by Jonathan Rees, MPS109700001, p41, para 4.5.4.1, 15 April 2008.

1124 Counsel Advice by Jonathan Rees, MPS109700001, p35, paras 4.4.1.1–4.4.1.2, 15 April 2008.

1125 Counsel Advice by Jonathan Rees, MPS109700001, p35, para 4.4.1.2, 15 April 2008.

1126 Counsel Advice by Jonathan Rees, MPS109700001, p36, para 4.4.2.1, 15 April 2008.

1127 Counsel Advice by Jonathan Rees, MPS109700001, pp35-36, para 4.4.1.2, 15 April 2008.

1128 Counsel Advice by Jonathan Rees, MPS109700001, p36, para 4.4.2.1, 15 April 2008.

1129 Counsel Advice by Jonathan Rees, MPS109700001, p36, para 4.4.2.2, 15 April 2008.

1130 Counsel Advice by Jonathan Rees, MPS109700001, p37, para 4.4.3.2, 15 April 2008.

had been standing over Daniel Morgan's body, and that the car driven by James Cook was a pale green Volkswagen Polo. He had refused to repeat this information on tape and consistently refused to make any statement about these matters.<sup>1131</sup>

638. In respect of former DS Sidney Fillery, Jonathan Rees, barrister, said the following:

- i. James Ward had said that DS Fillery investigated the murder 'very loosely'.
- ii. Gary Eaton had said that when he and James Cook were going to collect drugs, James Cook would ask DS Fillery if everything was alright. Gary Eaton said he accompanied James Cook, DS Fillery and a third man to a meeting where there was an open conversation about drugs and HM Customs and Excise. James Cook had handed DS Fillery an envelope containing cash.<sup>1132</sup>
- iii. Gary Eaton had said that, soon after the murder, DS Fillery had warned him that if '*he didn't keep his mouth shut, he or his family might get the same*'. Gary Eaton took this as referring to the murder of Daniel Morgan.<sup>1133</sup>
- iv. There was no evidence to suggest that former DS Fillery played any part in arranging the meeting between Daniel Morgan and Jonathan Rees on the evening of 10 March 1987, nor was he there that evening.<sup>1134</sup>
- v. There was insufficient evidence to suggest that DS Fillery knew, when he took a statement from Jonathan Rees on 11 March 1987, that the possible motive for the killing was closely connected to the civil dispute between Southern Investigations and Belmont Car Auctions.<sup>1135</sup>

639. Jonathan Rees, barrister, noted that the accounts of the four new witnesses, James Ward, Gary Eaton, Person S15 and Person X8, overlapped to a significant degree with regard to the involvement of Glenn Vian and Garry Vian. He noted that they appeared to be mutually corroborative in certain important respects. He therefore considered the possibility of collusion between them but concluded there did not appear to be any clear evidence to suggest that there had been any.<sup>1136</sup> The police had confirmed to him that there was no direct connection between James Ward and Gary Eaton.<sup>1137</sup>

640. Jonathan Rees, barrister, considered whether a member of the investigation team, inadvertently or otherwise, had contaminated the evidence by providing key details about the case.<sup>1138</sup> He noted:

- i. Such evidence existed in the case of James Ward because DCS David Cook had provided James Ward with details about the case before he started to give his account in February 2005.<sup>1139</sup> Apart from this instance, there was no other material to indicate

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1131 Counsel Advice by Jonathan Rees, MPS109700001, pp35-38, para 4.6.4.1, 15 April 2008.

1132 Counsel Advice by Jonathan Rees, MPS109700001, pp51-52, para 4.6.4.1, 15 April 2008.

1133 Counsel Advice by Jonathan Rees, MPS109700001, p52, para 4.6.4.2, 15 April 2008.

1134 Counsel Advice by Jonathan Rees, MPS109700001, p50, para 4.6.2, 15 April 2008.

1135 Counsel Advice by Jonathan Rees, MPS109700001, pp50-51, para 4.6.3.1, 15 April 2008.

1136 Counsel Advice by Jonathan Rees, MPS109700001, p79, para 5.7.3, 15 April 2008.

1137 Counsel Advice by Jonathan Rees, MPS109700001, p78, para 5.7.2 (a), 15 April 2008.

1138 Counsel Advice by Jonathan Rees, MPS109700001, pp79-80, para 5.7.3, 15 April 2008.

1139 Counsel Advice by Jonathan Rees, MPS109700001, pp80-82, para 5.8.1.1, 15 April 2008.

that James Ward was being told what to say by police.<sup>1140</sup> While articulating the reasons which he had been given as to why DCS Cook had provided case details to James Ward, Jonathan Rees, barrister, said:

*‘Although DCS COOK would be able to give evidence about his motives for dealing with [James Ward] in the way he did, I am of the view that this particular aspect would not play out well in front of a jury and there is a good chance that the integrity of the investigation may be undermined in their eyes.’<sup>1141</sup>*

- ii. In the case of Gary Eaton, *‘there are parts of the transcript which would provide defence counsel with at least some material for suggesting that DCS Cook was unguarded in the way he sought to ascertain what information [Gary Eaton] could provide’.*<sup>1142</sup> He gave several examples of this, referring to the note of the conversation which had been recorded on 26 July 2006 (see paragraphs 314-337 above). He said that none of these examples were of great significance in themselves but, when taken with the example of James Ward, *‘could be used to paint a picture of an investigation in which potential witnesses [...] have been influenced by the investigating officers’.*<sup>1143</sup>
- iii. Jonathan Rees, barrister, noted that the schedule of contacts between Gary Eaton and DCS David Cook showed *‘about ten occasions’* on which there had been contact between the two men. Jonathan Rees, barrister, said that having looked at the dates of the contacts, it was not easy to see how Defence Counsel could correlate those contacts with major changes in Gary Eaton’s account.<sup>1144</sup>

Jonathan Rees, barrister, had not at this time been provided with full information about the extent of the contact between Gary Eaton and DCS David Cook. In the light of what is now known about the very extensive contact between Gary Eaton and DCS Cook, it is possible to correlate the development of Gary Eaton’s account with the chronology of his interactions with DCS Cook.

- iv. There was no evidence of any contamination of Person S15’s or Person X8’s evidence.<sup>1145</sup>
- v. There was nothing to indicate that Person F11’s account of Daniel Morgan’s murder was as a result of any pressure placed on him to cooperate, especially not from the Abelard Two Investigation team.<sup>1146</sup>

1140 Counsel Advice by Jonathan Rees, MPS109700001, p83, para 5.8.1.6, 15 April 2008.

1141 Counsel Advice by Jonathan Rees, MPS109700001, p83, para 5.8.1.4, 15 April 2008.

1142 Counsel Advice by Jonathan Rees, MPS109700001, p84, para 5.8.2.1, 15 April 2008.

1143 Counsel Advice by Jonathan Rees, MPS109700001, p86, para 5.8.2.2, 15 April 2008.

1144 Counsel Advice by Jonathan Rees, MPS109700001, p87, para 5.8.2.4, 15 April 2008.

1145 Counsel Advice by Jonathan Rees, MPS109700001, pp87-88, paras 5.8.3 – 5.8.4, 15 April 2008.

1146 Counsel Advice by Jonathan Rees, MPS109700001, pp88-89, para 5.8.5.1, 15 April 2008.

## 7.10 Information from Person H2

641. Person H2 came forward after James Ward had given his evidence. He said, among other things, that in 2008 James Ward had told him that he had given evidence to the Abelard Two Investigation and as a result he was released from prison 15 years early. Person H2 said that he had asked James Ward whether he had told the truth in his statement and that James Ward had replied '*did he fuck*'. Person H2 said that he reported the conversation to the police but there is no record of him having done so. He contacted the police in 2008 following the announcement of the £50,000 reward for information. Person H2 said that he had given information to the police five years previously and had not received the reward. He said that he wished to claim the reward.

642. In March 2009, Person H2 contacted the Metropolitan Police enclosing transcripts of some covert recordings made by the Metropolitan Police at James Ward's home. Person H2 said that a former police officer had given him these and the names of six police informants or witnesses.

643. Three days later, Person H2 told the Metropolitan Police that he had been told by James Ward's solicitor and by Jacqueline Ward that they had fabricated evidence to get James Ward released from prison.

644. In April 2009, Person H2 told the Abelard Two Investigation that he had told officers three times between 2003 and 2008 that Garry Vian had told him that Daniel Morgan had been enticed out of the Golden Lion public house and that Glenn Vian hit him in the face with an axe. Garry Vian was there when it happened. He also said that on one occasion when he told officers he had been told to keep his mouth shut.

645. On 01 May 2009, the matter was referred to the Crown Prosecution Service. The Panel has seen the documents which accompanied this referral.

646. There was consideration of whether Person H2 could be used in the forthcoming trial. In June 2009, it was recorded that Person H2 could not be used because although his information about the murder may well be credible, '*he has damaged his credibility as a potential witness in this case by the actions he has taken since being investigated for money laundering [...]*'.

647. Person H2 made allegations against DCS David Cook and other police officers and against Stuart Sampson of the Crown Prosecution Service. No evidence has been found to support these allegations.

648. The Panel agrees with the Metropolitan Police that the account of the admissions which Person H2 said were made to him by Garry Vian about the murder of Daniel Morgan are credible. The history of Person H2 also made him a potentially credible witness. However, it is the Panel's view, based on the evidence available to it and its dealings with Person H2, that Person H2 did not inform officers before 2008 of the admissions made to him.

649. The decision not to use Person H2 was justified since his erratic conduct in dealing with the Abelard Two Investigation (of which the Panel has seen evidence) would have created complications which would have undermined the evidence he would have given at trial.

### 7.11 Decision that there was sufficient evidence to charge Jonathan Rees, Garry Vian, Glenn Vian and James Cook with murder

650. Finally, Jonathan Rees, barrister, considered the sufficiency of the evidence against each of the suspects. He concluded that sufficient evidence existed to charge Jonathan Rees, James Cook, Glenn Vian and Garry Vian with the murder of Daniel Morgan.<sup>1147</sup> Referring to Glenn Vian, he commented that his conclusion was reached, '*[o]n balance, and with some hesitation [...]*'.<sup>1148</sup> He continued: '*I think that if each of these witnesses' [sic] comes up to proof and nothing wholly unforeseen emerges which undermines their credibility, there is a realistic prospect that the jury could come to the conclusion that the witnesses are telling the truth about Glenn Vian's involvement in the killing.*'<sup>1149</sup> He applied this same caveat to all/each of the other suspects.

651. Jonathan Rees, barrister, concluded that he was '*acutely conscious*'<sup>1150</sup> that he had seen only a small portion of the huge amount of unused material that existed in the case. He stressed that, '*this advice is drafted on the basis that there is nothing in the unused material which has the potential to undermine any of the foundations of the prosecution case*'.<sup>1151</sup>

### 7.12 Decision that there was sufficient evidence to charge former DS Sidney Fillery with perverting the course of justice

652. Jonathan Rees, barrister, recorded that '*[i]t is agreed that there is insufficient evidence to establish that Fillery was involved in the murder of Morgan despite the fact that he effectively took Morgan's place as Rees's partner. However, there are pieces of evidence which raise suspicions that he set out to frustrate the investigation into the murder.*'<sup>1152</sup>

653. Jonathan Rees, barrister, considered a number of examples, presented in the advice file, alleging that former DS Sidney Fillery had perverted the course of justice. Jonathan Rees, barrister, pointed to Gary Eaton's allegation that DS Fillery threatened him in a public house shortly after the murder (see paragraph 457 xiv above), as the best example of DS Fillery attempting to subvert the murder investigation: '*I think that the best example of an act which could found a charge of perverting the course of justice is the threat Fillery made to [Gary Eaton] (a potential witness) to keep his mouth shut.*'<sup>1153</sup>

654. Jonathan Rees, barrister, also recorded the following:

*'The decision as to whether there is sufficient evidence to charge Fillery with an offence of perverting the course of justice is finely balanced. It is plain from the preceding paragraphs that, in my view, the clearest evidence of such an offence is contained*

1147 Counsel Advice by Jonathan Rees, MPS109700001, pp89-99, paras 6.1-6.4.3, 15 April 2008.

1148 Counsel Advice by Jonathan Rees, MPS109700001, pp89-99, paras 6.1-6.4.3, 15 April 2008.

1149 Counsel Advice by Jonathan Rees, MPS109700001, p94, para 6.1.7, 15 April 2008.

1150 Counsel Advice by Jonathan Rees, MPS109700001, p112, para 8.6, 15 April 2008.

1151 Counsel Advice by Jonathan Rees, MPS109700001, p112, para 8.6, 15 April 2008.

1152 Counsel Advice by Jonathan Rees, MPS109700001, p99, para 6.5.1, 15 April 2008.

1153 Counsel Advice by Jonathan Rees, MPS109700001, p101, para 6.5.2, 15 April 2008.



*in the statement from [Gary Eaton] and relates to the threat that Fillery made in the presence of [James] Cook. In this aspect of his evidence, there is no direct support for [Gary Eaton]’s account although, as already noted, other parts of his account are corroborated by other evidence in the case and the evidence he gives against Fillery is closely linked in some respects to the evidence he gives against Cook.*

*‘For reasons outlined above, I think that a jury could conclude that [Gary Eaton] was telling the truth about the main events linked to the murder and therefore, on balance, there are grounds for charging Fillery with an offence of perverting the course of justice in connection with the threat.’<sup>1154</sup>*

655. The decision to charge former DS Sidney Fillery appears to have been based on an assumption that if a jury were to believe Gary Eaton’s account in relation to the other four suspects, then they would also be likely to believe Gary Eaton’s account that he had been threatened by DS Fillery in 1987. There is no reference to the age of the threat, or to the fact that there was no corroboration, in addition to the inherent problems with Gary Eaton as a witness, which had already been acknowledged by Jonathan Rees, barrister.

Had the barrister, Jonathan Rees, been fully apprised of the extent of former DCS Cook’s contact with Gary Eaton, as he should have been having asked for a schedule of all contact from the police, it is unlikely that he would have relied on this evidence against former DS Fillery, as justifying the decision to bring such charges against him.

## 8 The arrests and interviews of Jonathan Rees, former DS Sidney Fillery, Glenn Vian, Garry Vian and James Cook

656. Jonathan Rees,<sup>1155</sup> former DS Sidney Fillery,<sup>1156</sup> Glenn Vian<sup>1157</sup> and James Cook<sup>1158</sup> were arrested for the murder of Daniel Morgan on 21 April 2008. While in custody, former DS Fillery was further arrested on 22 April 2008 for perverting the course of justice relating to Daniel Morgan’s murder. Garry Vian was produced from prison to be arrested and interviewed in connection with the murder of Daniel Morgan.<sup>1159</sup> All the interviews were tape-recorded and videoed and most were live-stream monitored. The interviews took place in interview rooms within the Custody Suite.

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1154 Counsel Advice by Jonathan Rees, MPS109700001, p103, paras 6.5.8–6.5.9, 15 April 2008.

1155 Custody record Jonathan Rees, MPS094329001, pp5-24, 21 April 2008.

1156 Custody record former DS Sidney Fillery, MPS094329001, pp25-32, 21 April 2008.

1157 Custody record Glenn Vian, MPS094329001, pp34-56, 21 April 2008.

1158 Custody record James Cook, MPS094329001, pp68-99, 21 April 2008.

1159 Custody record Garry Vian, MPS094329001, pp57-64, 21 April 2008.

## 8.1 The interview of Jonathan Rees

657. Jonathan Rees was interviewed in the presence of his solicitor on 13 occasions between 12.07 pm on 21 April 2008 and 5.50 pm on 23 April 2008.<sup>1160</sup>

658. Jonathan Rees was told early in his first interview that he was going to be interviewed about his relationships with Daniel Morgan, Margaret Harrison, Glenn Vian, Garry Vian, James Cook and former DS Sidney Fillery, and about how the latter four became involved with him in the murder of Daniel Morgan.<sup>1161</sup> He responded by reading a prepared statement<sup>1162</sup> in which he said that he would not be answering any questions, on the basis that the issues raised within the disclosure given to his solicitor had been fully addressed over the previous 20 years.<sup>1163</sup> However, the interviews continued with Jonathan Rees largely answering the questions put to him and strenuously denying any involvement in the murder of Daniel Morgan. He refused to answer questions regarding his relationship with Margaret Harrison.<sup>1164</sup>

659. Jonathan Rees was questioned first about the account of the witness James Ward<sup>1165</sup> and then the accounts of Person X8,<sup>1166</sup> Gary Eaton,<sup>1167</sup> former DC Duncan Hanrahan,<sup>1168</sup> former Police Officer N21<sup>1169</sup> and Person D6 (see section 8.6.1 below).<sup>1170</sup> He strongly challenged the evidence of each of these witnesses. During his seventh interview,<sup>1171</sup> when questioned about Gary Eaton's evidence, he denied knowing Gary Eaton and strongly refuted any suggestion that Gary Eaton had worked for Southern Investigations at any time. However, James Cook subsequently contradicted Jonathan Rees during his (James Cook's) interviews, by saying that Gary Eaton had done a couple of bailiff jobs with him for Southern Investigations.<sup>1172</sup> There is no evidence that this contradiction was subsequently put to Jonathan Rees in interview.

660. Jonathan Rees was also questioned about a covertly recorded conversation he had had with former DS Alec Leighton on 18 August 1999. During this conversation, Jonathan Rees allegedly discussed with former DS Alec Leighton whether they should offer the witness, Kevin Lennon, £2,000 to retract his original testimony in 1987 that Jonathan Rees had said that he wanted Daniel Morgan killed. Jonathan Rees replied '*no comment*' to most of the questions on this subject, did not acknowledge that he knew former DS Leighton and said that he had documentation he would rely on in court.<sup>1173</sup>

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1160 Records of interview of Jonathan Rees: 21 April 2008 – MPS108982001-12.12 pm-12.22 pm, MPS108983001- 2.40 pm-3.15 pm, MPS108985001-6.08 pm-6.50pm, MPS108986001-7.00 pm-7.22 pm. 22 April 2008 – MPS108987001- 10.55 am-11.42 am, MPS108988001- 11.46 am-12.03 pm, MPS108990001-5.40 pm-6.25 pm, MPS108991001-6.30 pm-07.10 pm, MPS108993001-8.55 pm-9.20 pm. 23 April 2008 – MPS108995001-11.25 am-11.44 am, MPS108996001-2.47 pm-3.18 pm, MPS108998001-4.37 pm-5.20 pm, MPS108999001- 5.23 pm-5.50 pm.

1161 Record of interview of Jonathan Rees, MPS108982001, p3, 21 April 2008.

1162 Prepared statement of Jonathan Rees, MPS108971001, 21 April 2008.

1163 Record of interview of Jonathan Rees, MPS108982001, p4, 21 April 2008.

1164 Record of interview of Jonathan Rees, MPS108996001, pp4-16, 2.47 pm-3.18 pm 23 April 2008.

1165 Records of interview of Jonathan Rees, MPS108983001, 2.40 pm-3.15 pm, 21 April 2008 and MPS108987001, 10.55 am-11.42 am, 22 April 2008.

1166 Records of interview of Jonathan Rees – MPS108985001, 6.08 pm-6.50 pm, 21 April 2008, MPS108986001, 7.00 pm-7.22 pm 21 April 2008, MPS108987001, 10.55 am-11.42 am, 22 April 2008, and MPS108988001, 11.46 am-12.03 pm, 22 April 2008.

1167 Records of interview of Jonathan Rees, MPS108990001, 5.40 pm-6.25 pm, 22 April 2008, and MPS108991001, 6.30 pm-7.10 pm, 22 April 2008.

1168 Record of interview of Jonathan Rees, MPS108995001, pp1-10, 11.25 am-11.44 am, 23 April 2008.

1169 Records of interview of Jonathan Rees, MPS108995001, pp10-11, 11.25 am-11.44 am, 23 April 2008 and MPS108996001, pp1-4, 2.47 pm-3.18 pm, 23 April 2008.

1170 Record of interview of Jonathan Rees, MPS108998001, 4.37pm-5.20 pm, 23 April 2008.

1171 Record of interview of Jonathan Rees, MPS108990001, 5.40 pm-6.25 pm, 22 April 2008.

1172 Record of Interview of James Cook, MPS000729001, p11, 22 April 2008.

1173 Interview record of Jonathan Rees, MPS108993001, pp4-13, 8.55 pm-9.20 pm, 22 April 2008.

## 8.2 The interview of former DS Sidney Fillery

661. Former DS Sidney Fillery was interviewed in the presence of his solicitor 13 times between 1.41 pm on 21 April 2008 and 3.24 pm on 23 April 2008.<sup>1174</sup>

662. Throughout his interviews, former DS Sidney Fillery continually denied any involvement in the planning or execution of Daniel Morgan's murder. Commenting on the first investigation and his arrest in 1987, he stated, '[...] *two inept Police Officers put two and two together, and came up with a lot more than four [...]*'.<sup>1175</sup>

## 8.3 The interview of Glenn Vian

663. Glenn Vian was interviewed in the presence of his solicitor 11 times between 4.47 pm on 21 April 2008 and 8.37 pm on 23 April 2008.<sup>1176</sup>

664. Glenn Vian was interviewed at length about his relationship with the other arrested individuals and his knowledge and suspected involvement in the murder of Daniel Morgan. He replied '*no comment*' to most questions put to him. When Glenn Vian was told that he was going to be interviewed concerning the account of Gary Eaton and Gary Eaton's relationship with Tony Airey, he was asked, '[b]efore we do Glen [sic] is there anything at all you wish to say personally in relation to Gary Eton [sic]?' Glenn Vian replied: '*I know this is difficult, I'm not trying to laugh but I don't know any of these people, so no comment.*'<sup>1177</sup>

665. During his third interview, on the morning of 22 April 2008, his solicitor read a prepared statement on his behalf, in which he denied any involvement in the murder.<sup>1178</sup>

## 8.4 The interview of Garry Vian

666. On 21 April 2008, Garry Vian was produced for interview from prison where he remained a serving prisoner following his conviction for importation of controlled drugs in 2005.<sup>1179</sup> He was interviewed, in the presence of his solicitor, 12 times between 3.30 pm on 21 April and 3.16 pm on 23 April 2008.<sup>1180</sup> He was interviewed at length about his suspected involvement in the murder of Daniel Morgan and his association with the other arrested individuals. He replied '*no comment*' to all questions.

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1174 Records of Interview, Sidney Fillery: 21 April 2008 – MPS108951001 – 1.41 pm-2.26 pm, MPS108952001 – 2.35 pm-3.16 pm, MPS108953001 – 7.07 pm-7.54 pm, MPS108954001 – 7.57 pm-8.07 pm. 22 April 2008- MPS108955001 – 10.59 am-11.42 am, MPS108956001 – 11.59 am-12.42 pm, MPS108957001 – 1.08 pm-1.46 pm, MPS108958001 – 6.31 pm-7.14 pm, MPS108959001 – 7.21 pm-7.40 pm. 23 April 2008 – MPS108960001 – 12.14 pm-12.59 pm, MPS108961001 – 1.06 pm-1.50 pm, MPS108962001 – 2.02 pm-2.11 pm, MPS108963001 – 3.07 pm-3.24 pm.

1175 Record of interview Sidney Fillery, MPS108952001, p8, 2.35 pm-3.16 pm, 21 April 2008.

1176 Records of Interview of Glenn Vian: 21 April 2008 – MPS109003001 – 4.47 pm-5.32 pm, MPS109004001 – 6.43 pm-7.25 pm 22 April 2008 – MPS109006001 – 9.21 am-10.05 am, MPS109007001 – 10.30 am-10.47 am, MPS109009001 – 12.29 pm-12.49 pm, MPS109010001 – 1.06 pm-1.21 pm, MPS109012001 – 5.28 pm-6.12 pm. 23 April 2008 – MPS109014001 – 10.20 am-11.07 am, MPS109015001 – 3.40 pm-4.19 pm, MPS109016001 – 5.33 pm-6.10 pm, MPS109019001 – 7.54 pm-8.37 pm.

1177 Records of Interview of Glenn Vian, MPS109012001, p2, 22 April 2008.

1178 Prepared statement of Glenn Vian, MPS109001001, 22 April 2008.

1179 Production Questionnaire, re. Garry Vian, MPS103888001, pp8-10, 21 April 2008; and, PNC record in respect of Garry Vian, MPS071868001, p1 & 3, undated.

1180 Records of interview of Garry Vian: 21 April 2008 – MPS108929001 – 3.30 pm-4.13 pm, MPS108930001 – 4.20 pm-4.54 pm, MPS108932001 – 7.24 pm-8.05 pm, MPS108933001 – 8.09 pm-8.38 pm 22 April 2008 – MPS108935001 – 10.20 am-11.00 am, MPS108936001 – 11.04 am-11.10 am, MPS108938001 – 5.06 pm-5.50 pm, MPS108939001 – 5.53 pm-6.05 pm, MPS108941001 – 8.40 pm-9.10 pm 23 April 2008 – MPS108943001 – 11.38 am-11.54 am, MPS108945001 – 1.51 pm-2.31 pm, MPS108946001 – 3.12 pm-3.16 pm.

## 8.5 The interview of James Cook

667. James Cook was interviewed in the presence of his solicitor on 11 occasions between 4.11 pm on 21 April 2008 and 3.02 pm on 23 April 2008.<sup>1181</sup>

668. James Cook replied ‘*no comment*’ to most questions until his fourth interview on the early evening of 22 April 2008, when his solicitor indicated that he would be answering questions on disclosed material concerning evidence from the witness Gary Eaton.<sup>1182</sup> James Cook said that he had known Gary Eaton because he had lived close to his parents. He confirmed that he had done some work with Gary Eaton for Southern Investigations<sup>1183</sup> but strenuously denied any criminal association with him.

## 8.6 Further witness evidence

669. The arrests and interviews of the five suspects in April 2008 did not take the investigation any further and, once again, officers sought to identify new witnesses who might bring further evidence about the murder.

### 8.6.1 Person D6

670. The day following the arrest of the five suspects, 22 April 2008, Person D6, a former boyfriend of Garry Vian’s and Glenn Vian’s sister, Samantha Vian, came forward, having read that day in the newspapers about the reinvestigation of the murder of Daniel Morgan and the arrests of suspects. He was interviewed the same day and said he had been told by Glenn Vian that he had murdered Daniel Morgan. He expressed an interest in the £50,000 reward.<sup>1184</sup>

671. Person D6 made a statement containing the following information:

- i. He had lived with Samantha Vian and her mother from the beginning of 1987.
- ii. He had known Glenn Vian and Garry Vian since before 1984 and had trained at the same gym as them in 1984.
- iii. Samantha Vian had worked part-time at The Harp public house in Croydon.<sup>1185</sup>
- iv. Glenn Vian, Garry Vian and Jonathan Rees regularly met in The Harp public house.<sup>1186</sup>
- v. He said:

*‘I recall being in the Harp on one or two occasions and hearing bits of conversation between Jonathan Rees and Glenn Vian. They were referring to Rees’ business partner Daniel Morgan. They were saying that they wanted to get rid of Morgan. They both said at different times of the conversation “when are you going to get rid of him”, “he’s got to go”. I didn’t really understand at what exactly they meant, I didn’t think they were talking about murdering*

1181 Records of interview of James Cook: 21 April 2008 – MPS074928001 – 4.11 pm-4.57 pm, MPS074929001, – 5.13 pm-5.38 pm, MPS074930001 – 7.57 pm-8.15 pm 22 April 2008 – MPS074932001 – 6.53 pm -7.40 pm, MPS074933001 – 7.55 pm-8.26 pm 23 April 2008 – MPS074934001 – 9.35 am-10.20 am, MPS074935001 – 10.30 am-11.03 am, MPS074936001 – 11.37 am-11.47 am, MPS074937001 – 12.00 pm-12.45 pm, MPS074938001 – 12.50 pm-12.56 pm, MPS074939001 – 2.30 pm-3.02 pm.

1182 Record of interview of James Cook, MPS074932001 p3, 6.53 pm – 7.40 pm , 22 April 2008.

1183 Record of Interview of James Cook, MPS074932001, p6, 22 April 2008.

1184 Record of interview of Person D6, MPS108307001, p45, 22 April 2008.

1185 Witness statement of Person D6, MPS079006001, p4, 22 April 2008.

1186 Witness statement of Person D6, MPS079006001, p4, 22 April 2008.

*someone. And I can't recall exactly who said what to who but gist of the conversation they were worked up about something. [...] Because I was with Sam for another three years I couldn't say anything about what I knew I'd have got killed myself. When I heard the conversation about Daniel Morgan "having to go" that would have been about January or February 1987. In the summer of 1987 around about June I was with Glenn again in The Harp Pub when he told me that he had killed Daniel Morgan. He said, "I done him straight in the head with the axe" and said, "he should have been wearing a crash helmet", he was laughing and joking. I said, "you fucking joking, ain't you?" he said, "no I ain't". He was bragging but I knew he was telling the truth, Samantha was annoyed because he kept bragging.*<sup>1187</sup>

672. Person D6 also said in interview that Glenn Vian said that he '[...] done him with a big left hander [...] yeah a left hander straight across his face'.<sup>1188</sup> This information was put to Glenn Vian during a later interview and he was asked to confirm whether he was left- or right-handed, but he declined to comment. His interviewers said that they had noticed he signed with his right hand and they asked if he was ambidextrous. Again, he did not comment. It was then suggested to him that if he was right-handed but had struck Daniel Morgan with the axe in his left hand, then this would be something out of the ordinary, which would explain why he had commented on it to Person D6.<sup>1189</sup> Glenn Vian replied 'no comment' throughout this series of questions.

673. Person D6 made three statements on 22 April 2008 adopting the tapes of his evidence as his statement and clarifying and amending points of his evidence.<sup>1190</sup>

674. Person D6 made further statements on 22 August 2008,<sup>1191</sup> 13 November 2008,<sup>1192</sup> 24 February 2009<sup>1193</sup> and 21 September 2009.<sup>1194</sup> A decision was made to use him as a witness during the trial.

## 9 Ongoing investigation

675. After the arrests, the police submitted a report to the Crown Prosecution Service on 23 April 2008, seeking a charging decision. Stuart Sampson's report response summarised the evidence as follows:

- i. *'The change since 2003 is that [Kevin] Lennon was then the only witness who gave any evidence of admission and was largely discredited; others have now come forward in particular Ward, Eaton, & [Person X8]. [Person F11] made a statement but then retracted it (the effect of CJA 2003 [Criminal Justice Act 2003] is that he can now be used) – since the arrests on Monday [Person D6] has come forward and has made a very useful statement as a result of which Rees & Glen [sic] Vian are to be further interviewed.*

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1187 Witness statement of Person D6, MPS079006001, pp5-7, 22 April 2008.

1188 Record of interview of Person D6, MPS108307001, p21, 22 April 2008.

1189 Record of interview of Glenn Vian, MPS109016001, pp5-6, 23 April 2008.

1190 Witness statements of Person D6, MPS079006001 and MPS079007001, and interviews MPS108306001, MPS108307001, MPS108308001, and MPS108309001 (records of interviews signed as a witness statement), all of 22 April 2008.

1191 Witness statement of Person D6, MPS079008001, 22 August 2008.

1192 Witness statement of Person D6, MPS079009001, 13 November 2008.

1193 Witness statement of Person D6, MPS079010001, 24 February 2009.

1194 Witness statement of Person D6, MPS079011001, 21 September 2009.



- ii. *There is no scientific evidence.*
- iii. *With each of the new witnesses there are problems which if he was the only witness there would be great difficulties in justifying charge. However taken together they present a reasonably coherent picture; assuming they all (or the majority) come up to proof then there is a reasonable chance the jury will believe the evidence that they give.*
- iv. *The evidence is supported by probe evidence obtained over the years both in the investigation and also OP Bedingham.*
- v. *The difficulty in this case, apart from the silence from those who could give evidence, is that it has been overcast by the suspicion of police malfeasance (ie the actions or inactions of Fillery at the time of the initial investigation) and the attempts to bring in the involvement of others. Rees in particular has made a number of attempts including a recent complaint to the CCRC [Criminal Cases Review Commission].*
- vi. *The other suspects have been excluded (by and large) and we are left with this quartet. Although Fillery's actions are suspicious there is in fact little if any evidence to show that he did actually do anything wrong at that time; however, if Eaton is to be believed then he did threaten him and that is enough.<sup>1195</sup>*

676. It was decided that Jonathan Rees, Glenn Vian, Garry Vian and James Cook be charged with murder and that former DS Sidney Fillery be charged with perverting the course of justice.<sup>1196</sup>

## 9.1 Person J5, continued

677. Person J5 had previously spoken to police about what she said she knew about Daniel Morgan's murder. She had not however been prepared to give evidence and had been very afraid of James Cook and of what might happen to her if she did give evidence.

678. On 10 June 2008, Person J5 attended a police station in compliance with the terms of her bail in respect of an unrelated matter being investigated by Surrey Police.<sup>1197</sup> DC Caroline Linfoot and DC Christopher Winks met her at the police station. Notes of this meeting were made by DC Linfoot.<sup>1198</sup> DC Linfoot recorded that she had informed Person J5 that James Cook had been charged with murder. She also recorded that she told Person J5 that the police were building their case, and that details of her previous meetings with Person J5 would be disclosed to the Defence. DC Linfoot recorded that she '*explained that [the police] had to provide [Person J5's] details under CPIA [Criminal Procedure and Investigations Act 1996] as a person who had refused to make a statement*' to lawyers for the Defendants.<sup>1199</sup> Person J5 said that she would think about whether she wanted to make a statement. DC Linfoot offered to get someone to explain the process of witness protection to Person J5. DC Linfoot recorded that Person J5 was very afraid of her current partner but that she declined help to get away from him.

679. In a letter to the Abelard Two Investigation, Person J5's solicitor expressed concern about the circumstances and conduct of this meeting.<sup>1200</sup> The letter stated that Person J5 had been approached with no prior warning and had not been legally represented. The solicitor said that

<sup>1195</sup> Case file including Manual of Guidance forms 1,3,4,5 and 7, MPS072615001, p9, 23 April 2008.

<sup>1196</sup> Case file including Manual of Guidance forms 1,3,4,5 and 7, MPS072615001, pp3-21, 23 April 2008.

<sup>1197</sup> Metropolitan Police Service Form 38, MPS105283001, p67, 10 June 2008.

<sup>1198</sup> Notes of meeting with Person J5, MPS105283001, pp69-72, 10 June 2008.

<sup>1199</sup> Notes of meeting with Person J5, MPS105283001, p70, 10 June 2008.

<sup>1200</sup> Letter from Haw and Co Solicitors representing Person J5, MPS104006001, p1, 11 June 2008.

he had been telephoned, the previous day, by the officer in the case for which Person J5 was on bail and had been told that there was no reason for him to attend as Person J5 was merely having her bail extended.

680. According to Person J5's instructions to her solicitor, DC Caroline Linfoot and another officer:

- i. told Person J5 that '*Jimmy Cook had been charged with murder and that they were going to try and convict Mr Cook for other crimes of which they are sure [Person J5]'s name would be implicated and that she could be possibly re-arrested*',<sup>1201</sup>
- ii. told Person J5 that their actions were a '*nice gesture*' to forewarn her and to persuade her to take part in the witness protection programme, and that the offer would not be there for long;<sup>1202</sup>
- iii. told Person J5 '*that they would make the person called Jimmy Cook aware that she has been talking to them despite her never having made a statement*';<sup>1203</sup>
- iv. told Person J5 repeatedly that if she did '*not accept their offer of being a Prosecution witness and not making a statement she would be on her own without Police protection*'.<sup>1204</sup>

681. On 12 June 2008, DCS David Cook replied to Person J5's solicitors, emphasising the need to advise Person J5 of '*our proposed course of action in respect of the investigation of further offences which could possibly have an impact on her safety and well being*'. He also said that '*[Person J5] engaged the officers in conversation, although from what I am led to believe, certainly not upon the lines as disclosed in your letter*' and that '*I am assured that the way in which the discussion was repeated to you, was not the way in which the discussion took place, and that [Person J5] was at liberty not to enter into the discussion but she chose to*'.<sup>1205</sup>

682. The account provided by Person J5 to her solicitor, of what had happened when she attended the police station on 10 June 2008, differed from that given by the police officers. The police notes do not contain any reference to the re-arrest of Person J5, and the other issues raised were reported as a communication of facts to Person J5. However, DC Caroline Linfoot, who spoke to Person J5, recorded that she was '*quite frightened*'. The fact that she had been told that her details would be disclosed to the Defence may have caused her very real fear. The Abelard Two Investigation was aware of Person J5's fears and her vulnerability. Although the police may not have intended the meeting to be threatening, they should have anticipated that she might have perceived it as such. DCS David Cook did not acknowledge the fact that the meeting may well have been construed by her as threatening, even though that may not have been the intention of the police.

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1201 Letter from Haw and Co Solicitors representing Person J5, MPS104006001, p3, 11 June 2006.

1202 Letter from Haw and Co Solicitors representing Person J5, MPS104006001, p3, 11 June 2006.

1203 Letter from Haw and Co Solicitors representing Person J5, MPS104006001, p3, 11 June 2006.

1204 Letter from Haw and Co Solicitors representing Person J5, MPS104006001, p3, 11 June 2006.

1205 Letter to Haw and Co Solicitors re client Person J5, MPS104065001, p2, 12 June 2008.

683. The Metropolitan Police had a responsibility to inform Person J5 of the prospect of her details being disclosed to the Defence. However, the way in which this was done appears to have been designed to bring additional pressure to bear upon her to be a Prosecution witness. The Abelard Two Investigation was determined to secure her as a witness despite her repeated statements of how afraid she was, yet no actual provision was made for her safety, although police did brief her about her safety and notified the local police that they should treat any calls to her home as urgent. Rather she was told that police could not protect her unless she gave a statement. Person J5 was referred to the Witness Protection Unit on 01 July 2009 when she provided a statement to the police.

684. Five months later, minutes of an Abelard Two Investigation office meeting, held on 13 November 2008,<sup>1206</sup> recorded that Person J5 had been charged by Surrey Police with conspiracy to defraud and that:

- i. Person J5 had been handed a letter from T/DCI Noel Beswick providing information about the Assisting Offender provisions of the Serious Organised Crime and Police Act 2005;<sup>1207</sup>
- ii. Person J5 had '*said that she did not trust the police as she had seen Jimmy COOK paying them off*';<sup>1208</sup>
- iii. DC Caroline Linfoot had stated that Person J5 had seemed very nervous and was shaking her head saying she could not give evidence; that DC Linfoot had reiterated that Person J5's safety was their main concern and that this had been explained to her in the presence of her solicitor.<sup>1209</sup>

685. Five months later on 16 April 2009, it was announced at an Abelard Two Investigation office meeting that '*no further action*' would be taken against Person J5 in respect of the fraud offences.<sup>1210</sup>

686. By 29 April 2009 the Abelard Two Investigation had become aware that James Cook's wife was looking for Person J5. Although they did not know why Jacqueline Cook was looking for Person J5, they knew that Person J5 could be in danger.<sup>1211</sup>

687. Abelard Two Investigation officers saw Person J5 on 05 June 2009,<sup>1212</sup> and on 15 June 2009 T/DCI Noel Beswick made a decision to seek a witness statement from Person J5 as her circumstances had changed and she was '*no longer in jeopardy of prison*'.<sup>1213</sup>

1206 Minutes of office meeting, MPS071803001, p88, 13 November 2008.

1207 Minutes of office meeting, MPS071803001, p88, 13 November 2008; and Witness statement by DC Caroline Linfoot, MPS077547001, 11 November 2008.

1208 Minutes of office meeting, MPS071803001, p88, 13 November 2008.

1209 Witness statement of DC Caroline Linfoot, MPS077547001, 11 November 2008.

1210 Message M1393 from T/DCI Noel Beswick, MPS074352001, 20 April 2009.

1211 Action A1982, '*TST [Person J5] re any info appertaining to the enquiry following the arrest and charging of the suspects*', MPS068746001, p3, 29 April 2009.

1212 Action A2496, '*Liaise with Surrey police and [...]*', MPS069723001, p2, 05 June 2009.

1213 Decision 113, Decision log by T/DCI Noel Beswick, MPS080404001, 15 June 2009.

## The Report of the Daniel Morgan Independent Panel

688. DC Nicholas Atherton and DC Robert Groombridge met Person J5 on 19 June 2009. She spoke at length about James Cook's criminality, described specific criminal incidents and her fear of James Cook whom she described as a violent man. DC Atherton and DC Groombridge reported that they discussed witness protection with Person J5 at this meeting.<sup>1214</sup>

689. DC Nicholas Atherton reported that at the meeting on 19 June 2009, Person J5 said that:

- i. James Cook had police contacts who provided him with information;<sup>1215</sup>
- ii. Jonathan Rees '*used to take a lot of drugs from "bent old Bill"*' which were '*siphoned off from police drug raids*';<sup>1216</sup>
- iii. James Cook was allegedly responsible for placing a pig's head on the doorstep of former DS Sidney Fillery's public house in Norfolk to warn him to keep quiet about things;<sup>1217</sup>
- iv. James Cook had told her that he, Glenn Vian, Garry Vian and Jonathan Rees had gone to the Golden Lion public house merely to '*rough him [Daniel Morgan] up*'. She stated that '*it was over a woman as well as "the deals"*'. James Cook had told her that Glenn Vian had '*all of a sudden pulled out an axe and hit [Daniel] MORGAN in the head with it*' to which James Cook then said to Glenn Vian: '*What the fuck did you do that for?*'<sup>1218</sup>
- v. James Cook told her that he took Daniel Morgan's watch and something else, which she thought may have been money.<sup>1219</sup>

690. At this meeting Person J5 also informed the Abelard Two Investigation that she would give information, but she would not give evidence in court, explaining that she was too afraid to do so because of her knowledge about James Cook's violence, and that of those associated with him.<sup>1220</sup>

691. On 22 June 2009, Person J5 met DC Nicholas Atherton and DC Robert Groombridge with officers from the Witness Protection Unit, to learn from them how she might be protected if she gave evidence. She said that she had received a threatening phone call on 19 June 2009, the day she had met DC Atherton and DC Groombridge, from her partner's cousin and Person E30, a man who was a known contact of James Cook (see Chapter 6, The Abelard One/Morgan Two Investigation). Person J5 said that she was telephoned while walking her dog by Person E30, whom she described as saying to her, '*Don't listen to anything the Police tell you about Jimmy, it's all bollocks. Don't say a fucking word and it'll be alright. Don't say anything about anything and everything will be alright.*' Person J5 said that after this she was very frightened.<sup>1221</sup>

692. In a record of the meeting on 22 June 2009, DC Nicholas Atherton said that they had reassured Person J5 that it was pure coincidence that she had received a phone call, and that there had been no leak to the effect that the investigation team were visiting her.<sup>1222</sup> Person J5

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1214 Message M1445 from DC Nicholas Atherton, MPS006164001, 19 June 2009.

1215 Message M1445 from DC Nicholas Atherton, MPS006164001, p3, 19 June 2009.

1216 Message M1445 from DC Nicholas Atherton, MPS006164001, p3, 19 June 2009.

1217 Message M1445 from DC Nicholas Atherton, MPS006164001, p3, 19 June 2009.

1218 Message M1445 from DC Nicholas Atherton, MPS006164001, p2, 19 June 2009.

1219 Message M1445 from DC Nicholas Atherton, MPS006164001, p2, 19 June 2009.

1220 Message M1445 from DC Nicholas Atherton, MPS006164001, p1, 19 June 2009.

1221 Witness statement of Person J5, MPS000484001, pp2-3, 14 July 2009.

1222 Message from DC Nicholas Atherton, MPS006165001, p2, 23 June 2009.

stated that she was hesitant to assist because the fact that she had helped would be passed back to James Cook.<sup>1223</sup> Person J5 told DC Robert Groombridge and DC Atherton that the information that she had about James Cook could lead to his downfall, but if he were somehow found not guilty, she would be a ‘*marked woman*’ for life.<sup>1224</sup>

693. On 23 June 2009, at 11.44 am, Alastair Morgan emailed a letter to former DCS David Cook. This letter was addressed to a ‘*Witness*’.<sup>1225</sup> At 12.10 pm that day, DC Nicholas Atherton telephoned Person J5 ‘*to check her welfare*’.<sup>1226</sup> In his written update to the Abelard Two Investigation, DC Atherton noted that Person J5 had said that ‘*she had had a very bad nights [sic] sleep and every little noise she heard made her nervous. She stated as a result she had not gotten out of bed until about 1100 hours and was going to her doctors to see if she could get any medication.*’<sup>1227</sup> DC Atherton also noted she appreciated the call and he told her he would remain in contact.<sup>1228</sup>

694. On 24 June 2009, DC Robert Groombridge and DC Nicholas Atherton visited Person J5 at her home address to check whether she was alright.<sup>1229</sup> Person J5 invited both officers into her home.<sup>1230</sup> Person J5 was shown the letter from Alastair Morgan to her.<sup>1231</sup> DC Atherton noted in a message to the Abelard Two Investigation that the letter confirmed Alastair Morgan’s ‘*trust and confidence in the investigation and his determination to see his brother’s killers brought to justice*’.<sup>1232</sup> The letter read:

*‘Dear Witness*

*I don’t know your name and it’s difficult to write to a stranger in these circumstances, but I will try. I’m sure you must be feeling stressed and I hope this letter from me, Daniel’s brother Alastair, will help you.*

*It’s obvious that you want to help the police solve my brother’s murder otherwise you’d never have given them any information at all. Thank you for this and for being open with the police. You’ll understand that after so many years it’s very important for us to know the truth. We’ve fought a very hard battle to get to this point.*

*This happened again and again. We felt that they were corrupt. We were even going to take the government to court about this issue, we felt so angry about it. I want you to understand that this situation has now changed completely. It’s taken a long time and a lot of changes from the police but now we have total confidence in the honesty of Dave Cook and his team. We trust them and we have found that we can rely on what they say to us. This is so important.*

*I want to appeal to you as a person. We’ve been through absolute hell as a result of Dan’s murder and all we want now, when we’re so close to the end, is for the people who did this to him to face the consequences of their actions. I know that you can help us. Please do it. I don’t want to use the word “beg”, but that’s what I feel inside.*

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1223 Message from DC Nicholas Atherton, MPS006165001, p2, 23 June 2009.

1224 Message from DC Nicholas Atherton, MPS006165001, p2, 23 June 2009.

1225 Email from Alastair Morgan, EDN001580001, 23 June 2009.

1226 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p1, 25 June 2009.

1227 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p1, 25 June 2009.

1228 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p1, 25 June 2009.

1229 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p1, 25 June 2009.

1230 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p1, 25 June 2009.

1231 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p2, 25 June 2009.

1232 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p2, 25 June 2009.



*Please trust this team of police and what they say to you.*

*I wish you all the best in your life. I believe that when you look back on this you will feel proud of what you have done.*

*Best regards,*

*Alastair Morgan*<sup>1233</sup>

695. DC Nicholas Atherton noted that '[t]he letter, written with strong emotion clearly effected [sic] [Person J5]' and that she asked several questions concerning the security of the evidence-giving process.<sup>1234</sup>

696. Former DCS David Cook was asked at interview how the letter came to be written. He said that he could not remember, but he said '*we'll use every tactic in the book to see if we can get someone on board, and if that was our opportunity, tell me what was wrong with it*'.<sup>1235</sup>

697. The Panel has been unable to identify how this letter came to be written and whether the idea for the letter originated with Alastair Morgan or the Abelard Two Investigation and, in particular, from former DCS David Cook. Regardless of this, it was inappropriate to deliver the letter to Person J5. It was at a time when she was in great fear and contemplating the possibility of giving evidence as a witness. The effect of this was to add to the pressure on her to become a witness by using the grief and distress of the family to do so. This should not have happened.

698. On 26 June 2009, Person J5 alleged that sometime between 7.30 am and 8.00 am, she was walking her dog, when she was violently assaulted by two men, one of whom told her '*keep your mouth shut, don't say anything, if you do next time it will be worse*'. Following that assault, one of the men said '*Don't say anything. Keep your mouth shut.*' She said that she returned home and reported the attack to police a few hours later. The local ambulance service was called by the police and she was taken to hospital. She gave names which she said she thought were the names of the people who attacked her. In a subsequent interview, she stated that she did not know them and would not recognise them again.<sup>1236</sup>

699. The alleged attack on Person J5 was investigated by the Abelard Two Investigation, which identified who one of the people was, but found that this person had an alibi for the time of the alleged attack. They also found a draft text dated 26 June 2009 at 02.29.33 on Person J5's phone describing the attack before it happened.<sup>1237</sup> At this point the police should have considered Person J5's credibility as a witness, as this text had the potential to seriously undermine her credibility. The matter was closed, and Person J5 was informed of the outcome of the investigation. Later in March 2010, Person J5 expressed concerns, during one

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1233 Letter to Person J5 from Alastair Morgan, MPS001417001, p1, undated.

1234 Message from DC Nicholas Atherton in respect of Person J5, MPS006166001, p2, 25 June 2009.

1235 Panel interview of former DCS David Cook, Transcript 4, p7, 25 August 2020.

1236 Unused notes of meeting with Person J5, MPS005407001, p1, 26 June 2009.

1237 '*Evidential examination report of telephone of Person J5 N1106*', MPS105850001, p17, 17 November 2009.

of her debrief sessions, that the letter, from Alastair Morgan, was connected with the alleged assault she sustained, suspecting corrupt police officers may have found out and informed criminal contacts.<sup>1238</sup>

700. On the day of the attack (26 June 2009), DI Douglas Clarke recorded that he had arranged for Person J5 to be taken to a place of safety and for two named police officers to provide assistance and support.<sup>1239</sup> She was then placed under police protection. DI Clarke stated later that he was *'aware later in the afternoon [of 26 June 2009] that SIO David Cook attended the location, where [Person J5] was in attendance,'* and spoke to her about assisting the enquiry and protection which could be offered to witnesses.<sup>1240</sup>

701. DI Douglas Clarke recorded that *'[t]hroughout the evening I knew that an attempt was made to take a statement from [Person J5] as to her knowledge of Jimmy Cook's involvement in the murder of Daniel Morgan. The direction for this course of action had been agreed by SIO [Senior Investigating Officer] David Cook.'*<sup>1241</sup>

702. At approximately 10.00 pm that evening, because of the time and Person J5's continuing concerns, DI Douglas Clarke decided that the attempt to take the statement should not proceed.

703. The police recorded contemporaneously that members of her family and acquaintances were also allegedly putting pressure on Person J5 not to give evidence.<sup>1242</sup> Messages were being passed to her via her partner's youngest daughter on 28 June 2009 that if she did not testify or make a statement, James Cook would make an apology and she would not be attacked again. The police were in her presence when some messages were received.<sup>1243</sup>

704. DI Douglas Clarke recorded repeatedly in his account of this period that no inducements were made to Person J5 to become a witness. He recorded that on 27 June 2009 she spoke to DC Nicholas Atherton and former DCS David Cook, and that on 28 June 2009 he was briefed that former DCS Cook had met with her again.<sup>1244</sup> DI Clarke recorded that, *'I am not certain as to the content of the meeting with SIO David COOK and [Person J5]'*.<sup>1245</sup> There is no note of the meeting.

705. Notes taken by the Abelard Two Investigation, between 26 June 2009 and 31 July 2009, indicated that Person J5 was willing to give evidence.<sup>1246</sup> Nicholas Hilliard QC, who was lead Counsel, and Jonathan Rees, barrister, recorded that Person J5's decision to become a witness on 26 June 2009 had created difficulties as the trial was due to begin in October 2009.<sup>1247</sup> It also appeared that she had information about criminal activity unconnected to Daniel Morgan's murder.<sup>1248</sup>

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1238 Summary of Person J5 debriefs tape 91 – tape 140 including interviews, MPS107147001, p2, 03 March 2010.

1239 Decision log by DI Douglas Clarke, MPS080449001, p2, 17 November 2009.

1240 Decision log by DI Douglas Clarke, MPS080449001, pp2-3, 17 November 2009.

1241 Decision log by DI Douglas Clarke, MPS080449001, p4, 17 November 2009.

1242 Copy of original notes recorded by DC Nicholas Atherton during his dealings with Person J5 between 26 June and 31 July 2009, MPS005546001, pp9-10, 28 June 2009.

1243 Copy of original notes recorded by DC Nicholas Atherton during his dealings with Person J5 between 26 June and 31 July 2009, MPS005546001, pp9-10, 28 June 2009.

1244 Decision log by DI Douglas Clarke to review initial contact with Person J5, MPS080449001, p8, 17 November 2009.

1245 Decision log by DI Douglas Clarke to review initial contact with Person J5, MPS080449001, p8, 17 November 2009.

1246 Copy of original notes recorded by DC Nicholas Atherton during his dealings with Person J5 between 26 June and 31 July 2009, MPS005546001, pp14-15, 30 June 2009.

1247 Note on Disclosure of Debrief Interviews of Person J5, MPS106493001, p3, para 4, 16 March 2010.

1248 Note on Disclosure of Debrief Interviews of Person J5, MPS106493001, p3, para 5, 16 March 2010.

706. Person J5 was interviewed by the Abelard Two Investigation on a number of occasions. On 01 July 2009, she gave a statement<sup>1249</sup> saying that James Cook had spoken to her several times about the murder of Daniel Morgan. She said that James Cook had told her many things, including the following:

- i. *'There was something going on between Danny and Jon to do with a woman.'*
- ii. *'Jon had gone to the Vian brothers as Danny was pissing him off. The Vian brothers did it as a favour to Jon as I think one was a brother in law to Jon.'*
- iii. *'Jon asked Gary [sic] and Glen [sic] because he knew what they could do.'*
- iv. *'Jon wanted Danny warned off the woman and also wanted Danny to be out of the business with him.'*
- v. *'Jon arranged for Danny to meet him in a pub in Croydon in the evening or late afternoon.'*
- vi. *'Jon and Danny had a row in the pub and Danny stormed out to go back to his car, which was in the pub car park.'*
- vii. *'Jon knew that Jimmy and Gary [sic] and Glen [sic] were in the car park waiting for Danny' and that 'Danny did not know that they were waiting for him'.*
- viii. *'The nuttier brother, who I think is Gary [sic], then pulled out an axe from the boot of a car, put it in his jacket and then smashed it into Danny's head.'*
- ix. *'He (James Cook) was not expecting the axe.'*
- x. *'Jimmy said the Rolex watch was taken off Danny [...] later it was smashed when police were investigating.'*
- xi. *'He said that they put Danny's body in the boot of the car with the axe and then they took the body back out. It was a bit of a panic, there was too much mess.'*
- xii. *'Jimmy told me that he did not know about the plan to murder Danny [...] He thought that they were going to beat Danny up, give him a hiding and he was going to drive the car from the pub.'*
- xiii. *'Jimmy said that the investigation did not get anywhere because of the police involvement as they were in Jon Rees' pocket.'*

707. Person J5 also provided evidence which was not related to the murder of Daniel Morgan but on alleged corrupt practices between Jonathan Rees and the *News of the World*, and between Jonathan Rees and some police officers.<sup>1250</sup>

708. Person J5 also described the attack on 26 June 2009 and the earlier telephone calls of 19 June 2009, in a statement made on 14 July 2009, in which she named her attackers.<sup>1251</sup>

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1249 Witness statement Person J5, MPS090646001, 01 July 2009.

1250 Witness statement Person J5, MPS090646001, pp2-3, 01 July 2009.

1251 Witness statement Person J5, MPS079161001, p6, 14 July 2009.

709. On 02 July 2009, Person J5 was taken into the care of the Witness Protection Unit.<sup>1252</sup>

710. As a consequence of the significance of what had been said by Person J5, and of her current situation, a decision was made on 10 August 2009, to debrief her, rather than just taking a witness statement.<sup>1253</sup> A psychological assessment of her was carried out on behalf of the Witness Protection Unit on 13 August 2009.<sup>1254</sup> It was recorded that she was taking anti-depressants for post-traumatic stress disorder<sup>1255</sup> and would require '*substantial support from the team*' as events progressed.<sup>1256</sup>

711. Person J5 entered the debriefing process on 12 August 2009. There were 85 debriefing sessions and they were completed on 26 October 2009.<sup>1257</sup>

712. On 12 August 2009, Person J5 wrote to members of Daniel Morgan's family expressing sorrow for not helping with the enquiry sooner but that she had been scared. She also wrote on the same day to former DCS David Cook saying that she was glad to give evidence and asking him to pass on the letter to the family of Daniel Morgan.<sup>1258</sup>

713. Iris Morgan was told about Person J5's evidence and given a copy of her letter during a family liaison visit on 13 August 2009.<sup>1259</sup>

714. The Abelard Two Investigation continued to investigate the Asda armed robbery (see section 6.8.1 above). This armed robbery, which occurred in 1998, should have been referred to the Metropolitan Police Specialist Crime Directorate for investigation. Despite this, it was investigated by the Abelard Two Investigation. It was a lengthy and complex investigation. The original investigation of the armed robbery by the Metropolitan Police Flying Squad was reviewed, and by 18 October 2010 a significant investigation had occurred including forensic investigation and phone data analysis. On 03 September 2009, Person J5 was again arrested and interviewed under caution. She made no response. In addition to Person J5, seven other suspects were arrested and charged in connection with the crime. The seven suspects, among whom was James Cook, had been re-bailed on a total of 34 occasions by October 2010. The report to the Crown Prosecution Service seeking advice stated that Person J5 provided accurate '*fine-grain detail*', and there were serious aggravating features in the case. The report concluded that '*[i]t is felt that it is in the public interest to prosecute those responsible*' for the robbery.<sup>1260</sup>

715. When the decision not to use Person J5 as a Prosecution witness in the Daniel Morgan murder case was made, this investigation was terminated.

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1252 Decision 1, Decision log by DI Douglas Clarke to review initial contact with Person J5, MPS080449001, p2, 17 November 2009.

1253 Decision 119, Decision log by DI Douglas Clarke, MPS080410001, 10 August 2009.

1254 Psychological assessment in respect of Person J5, MPS004302001, 01 September 2009.

1255 Psychological assessment in respect of Person J5, MPS004302001, p2, 13 August 2009.

1256 Psychological assessment in respect of Person J5, MPS004302001, p4, 01 September 2009.

1257 Debriefing interviews of Person J5, MPS090753001-MPS090837001, 12 August to 26 October 2009.

1258 Letter to DCS David Cook from Person J5, MPS109175001, pp28-30, 12 August 2009.

1259 Family liaison log in respect of Iris Morgan, MPS080107001, p1, 13 August 2009.

1260 Charging Advice Sought in Relation to the Robbery of Asda, EDN000128001, p58, undated.

716. On 08 October 2009, Person J5 requested an agreement under the Serious Organised Crime and Police Act 2005 granting her immunity from prosecution in respect of the evidence she provided on a restricted use undertaking which would state that any information she provided could not be used against her in specified circumstances.<sup>1261</sup> She entered into an agreement under the Serious Organised Crime and Police Act 2005 on 17 October 2009.<sup>1262</sup>

717. By 09 October 2009, Person J5 had provided information of at least 51 past offences allegedly committed by James Cook.<sup>1263</sup> These included involvement in some 36 murders,<sup>1264</sup> offences of theft, possession of controlled drugs, possession of a prohibited weapon, arson, corrupting of police officers, burglaries, robberies, handling stolen goods, conspiracy to pervert the course of justice, a public order offence, money laundering, assault and attempted murder, forgery and dishonest handling, drug importation, grievous bodily harm, and other crimes including disposal of bodies, disposal of crime-related items and buying disguises to commit crimes.<sup>1265</sup> Person J5 had also admitted firing a gun into the body of a person who had just been shot dead and had offered to show the police where bodies were buried. Despite searches, no bodies were found. The Metropolitan Police expended significant resources attempting to corroborate the evidence provided by Person J5.<sup>1266,1267</sup>

718. On 14 October 2009, Person J5 gave a statement<sup>1268</sup> amending some information which she had provided on 01 July 2009 about Daniel Morgan's murder, saying that, *'I was then, and still am now, petrified off [sic] telling on Jimmy, and at the time I didn't know who I could trust and I didn't feel safe'*.<sup>1269</sup>

719. In her statement dated 14 October 2009, Person J5 said the following:

- i. Although she had previously said that *'John wanted Danny warned off a woman and Danny to be out of the business and also he had spoken to Gary [sic] and Glen [sic] VIAN as he wanted something doing about it,'* she stated in her new statement that *'Jimmy actually told me that John REECE [sic] met up with the VIAN brothers and Jimmy and told them he wanted Danny to disappear, which Jimmy said meant killed'*.<sup>1270</sup>
- ii. Although she had previously said, *'Jimmy was not expecting the axe'*, she stated in the new statement, *'Jimmy actually said that the plan was to bundle him into a car and take him away somewhere quiet where he would be got rid of. Jimmy told me he was trying to bundle Danny into the car, he had grabbed Danny and opened the car door, there was big [sic] struggle, Jimmy continued and told me then the crazy brother of the two, that I had just met in the pub, pulled out an axe and hit Danny straight over the head with this axe. He then pulled the axe out of his head and hit him again in the head. He said the axe was sticking out of his head; he was lying on the floor with the axe sticking out of his head.'*<sup>1271</sup>

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1261 Witness statement of Person J5, MPS079170001, 08 October 2009.

1262 Signed SOCPA agreement sent to the Crown Prosecution Service, MPS090656001, 17 October 2009.

1263 Debriefing Team Disclosure Summary Schedule (Amended) regarding Person J5, MPS090632001, 09 October 2009.

1264 MPS i2 Analyst Notebook 7, PNL000177001, p2, undated. Analysts chart on 36 murders – each given an individual operation name – and other crimes including assaults, stabbing, burglary, thefts, illegal drug supply, supply of firearms.

1265 Debriefing Team Disclosure Summary Schedule (Amended) regarding Person J5, MPS090632001, pp4-17, 09 October 2009.

1266 For example, see Debriefing notes in respect of Person J5, MPS004453001, 07 July 2010.

1267 Witness statement of former T/DCI Noel Beswick, MPS109748001, p46, para 165, 20 October 2016.

1268 Witness statement Person J5, MPS090647001, 14 October 2009.

1269 Witness statement Person J5, MPS090647001, p2, 14 October 2009.

1270 Witness statement Person J5, MPS090647001, pp1-2, 14 October 2009.

1271 Witness statement Person J5, MPS090647001, p2, 14 October 2009.



- iii. Although she had previously said that James Cook did not know about the plan to murder Danny, *'[t]his was totally untrue [...]'*.<sup>1272</sup>
- iv. Although she had said that the Rolex watch was taken and that someone had kept it, *'Jimmy told me that it was him that actually stole this watch and later smashed it up'*.<sup>1273</sup>

720. On 10 November 2009 and 05 January 2010, police reported to Counsel on the outcome of their enquiries into Person J5's testimony to date, saying that further information was required from Person J5.<sup>1274</sup> Counsel advised that the debrief should be resumed.<sup>1275</sup>

721. On 26 April 2010, Nicholas Hilliard QC<sup>1276</sup> and Jonathan Rees QC<sup>1277</sup> stressed to the Abelard Two Investigation the importance of ensuring that each allegation made by her *'had been the subject of targeted and focussed questioning [...] so that we are in a position to make focussed and targeted enquiries into what she says so that we can fulfil our disclosure obligations'*.<sup>1278</sup>

722. Subsequent checks on the names of alleged victims provided by Person J5, revealed that they were contained on a missing person's website, suggesting that the names may have been taken from there, rather than representing information known personally to Person J5.<sup>1279</sup> DI Douglas Clarke recorded that she had:

*'already been asked about her usage of computer aids, be it laptop, mobile phones or any other means onto the internet, plus, whether she has carried out any research using other mediums to bolster her testimony. She has emphatically denied the use of any aids, other than recall.'*<sup>1280</sup>

723. DS Peter Summers reported, *'[t]oward the end of her debrief there was suspicion that not all of her assertions were of a first hand nature.'*<sup>1281</sup> On 14 June 2010, DI Douglas Clarke decided to retrieve a Metropolitan Police laptop which had been supplied to Person J5 and her partner, *'to carry out covert checks [...] to establish whether [she] has been viewing, particularly, "missing person sites", whilst supplying results as alleged victims in her interview transcripts'*.<sup>1282</sup>

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1272 Witness statement Person J5, MPS090647001, p2, 14 October 2009.

1273 Witness statement Person J5, MPS090647001, p2, 14 October 2009.

1274 Counsel advice, MPS109586001, p89, 20 January 2010.

1275 Counsel advice, MPS109586001, p89, 20 January 2010.

1276 Nicholas Hilliard was appointed Queen's Counsel in 2008.

1277 Jonathan Rees was appointed Queen's Counsel in 2010.

1278 Note from Nicholas Hilliard QC and Jonathan Rees QC, MPS109586001, p18, 26 April 2010.

1279 Decision 204, Decision log by DI Douglas Clarke, MPS080519001, 14 June 2010.

1280 Decision 204, Decision log by DI Douglas Clarke, MPS080519001, 14 June 2010.

1281 History of Investigations, MPS107450001, p8, 09 March 2011.

1282 Decision 204, Decision log by DI Douglas Clarke, MPS080519001, 14 June 2010.

724. Questions had been asked previously about the initial information provided by Person J5 about the Asda robbery, and the Abelard Two Investigation had checked whether she was fabricating her evidence but came to the conclusion that she was not. When she began claiming detailed knowledge of historic crimes, officers should have made early checks to ascertain what information was available about those crimes on the internet and similar sources and should also have investigated whether she had accessed such sources of information. Had police identified the fact that she had begun researching some of the crimes about which she spoke, this would have enabled early discussion with her about whether she was fabricating evidence. Officers should have been aware she had access to a computer which she had used to undertake research. The Witness Protection Unit officers with Person J5 should have advised the Abelard Two Investigation of this.

725. On 25 June 2010, as a consequence of the rising concerns about the credibility of Person J5 as a witness, T/DCI Noel Beswick met two psychologists.<sup>1283</sup> The psychologists had previously been supplied with material related to Person J5 and concluded that she '*probably had Borderline Personality Disorder*'<sup>1284</sup> which, they said, meant that she had a tendency to want to please her debriefers and this was possibly what had occurred.

726. The psychologists believed that Person J5 had been telling the truth, in respect of the information she had supplied in 2006 and in her statement in July 2009 (concerning the murder of Daniel Morgan), because there had not been time for a bond to form and the information had remained consistent.<sup>1285</sup> T/DCI Noel Beswick said that the view of the psychologists on this was reinforced by the offer of James Cook to plead guilty, (to a lesser charge than murder), after Person J5's statement was disclosed in 2009.<sup>1286</sup>

727. On 07 July 2010, Person J5 wrote a letter to DI Douglas Clarke and former DCS David Cook.<sup>1287</sup> Person J5 expressed her regret for assisting the police and her distrust for the Crown Prosecution Service.<sup>1288</sup> In her letter, she expressed anger at the suggestion that she had not been telling the truth saying:

*'I did NOT want to open up these deeply disturbing memories, you insisted I told you everything I knew. For you to dare to imply I have lied in any way is a disgrace. What is my motive? What benefit do I receive for information that causes me a great deal of upset? I have a contract on my life, if my information was not correct then why would that be so? The veracity of the Statements made and all information I have given concerning crimes, is 100% accurate within the constraints of my memory.'*<sup>1289</sup>

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1283 Messages M1752, MPS074714001, and M1755, MPS074717001, both of 28 June 2010.

1284 Message M1755, MPS074717001, 28 June 2010.

1285 Message M1755, MPS074717001, 28 June 2010.

1286 Message M1755, MPS074717001, 28 June 2010.

1287 Letter from Person J5, MPS107216001, pp6-7, 07 July 2010.

1288 Letter from Person J5, MPS107216001, p6, 07 July 2010.

1289 Letter from Person J5, MPS107216001, p6, 07 July 2010.

728. Person J5 also explained that she had been harassed for three years by the police into giving evidence.<sup>1290</sup> Person J5 said she would fulfil her obligations under her immunity agreement but would not disclose any other information to the Abelard Two Investigation as she had lost her life and family.<sup>1291</sup>

729. On 22 October 2010, T/DCI Noel Beswick made a decision that the Abelard Two Investigation should not continue to investigate the allegations made by Person J5, saying:

*‘[Person J5]’s account falls into two main phases, account before formal debrief and account during formal debrief. Her account before de-brief is broadly corroborated whereas her account during debrief is less so. Her actual role, if any, in the offences she describes during formal debrief is difficult to establish with any degree of certainty. Internet searches, purportedly made by her partner prior to her disclosure of the information found serves to exacerbate the concern. [Person J5] has also been evaluated by [...] a forensic psychiatrist, on behalf of Prosecution Counsel. [The forensic psychiatrist] concluded that [Person J5] had no severe mental health issues, it is therefore understood that for whatever her reasons, [Person J5] consciously took the decision to provide the debrief team with the information she did. [Person J5] has given information about numerous murders, that she either claims knowledge of, or that she witnessed directly. Most involved Abelard II defendant, James Cook. Det. Chief Superintendent Hamish Campbell had directed that SCD1 Team 16 would take primacy for the investigation of these murders, so the decision as to the future progress of these matters will be referred to Mr Campbell. The actions “referred” by this decision relate to seeking corroboration as to persons described in debrief, locations described and other background information. Balancing potential expenditure in terms of resources and cost to the public purse against potential benefit to this investigation clearly indicates it would be an inefficient use of such resources to continue with these lines of enquiry. Material generated by the investigation to date has been disclosed to prosecution and defence legal teams. [Person J5] is not to be called as a witness, but it remains open to defence to carry out such further investigation as they deem necessary.’<sup>1292</sup>*

730. On 12 November 2010, Stuart Sampson of the Crown Prosecution Service wrote to Person J5 explaining that she was no longer to be a witness in the case. He explained that:

*‘[...] as part of the general obligation of the prosecution to ensure that defendants receive a fair trial, there is a duty on the prosecutor to disclose to the defence any material which might assist them or which might undermine the prosecution case. As far as you are concerned, I begin by thanking you on behalf of the Prosecution for coming forward in what were undoubtedly very trying circumstances. You entered a debrief process and made statements about your knowledge of the murder of Daniel Morgan and the criminal activities of those involved. There is no reason to suppose that what you said about the involvement of James Cook in the murder of Daniel Morgan is untrue. However, you went on to claim to have witnessed some 30 or more murders; you also showed the police sites where you claimed that bodies were buried. That information does not appear to have been accurate. Serious concern was also raised as it was clear that a computer to which both you and your boyfriend had access had*

1290 Letter from Person J5, MPS107216001, p6, 07 July 2010.

1291 Letter from Person J5, MPS107216001, p7, 07 July 2010.

1292 Decision 213, Decision log by DCS David Cook, MPS080528001, 22 October 2010.

*been used to research information about missing persons and criminals, which you then discussed with the debrief officers.*<sup>1293</sup>

731. Stuart Sampson also referred in his letter to the attack on Person J5 (see paragraphs 698-699 above) and explained that, ‘[d]oubts were raised about the location and timing of the attack and also the identity of your attackers’ and ‘[...] a fact emerged which undermined the prosecution case completely: on your mobile telephone was found a draft (ie unsent) message which referred to the attack and which was dated 02.29 in the morning, ie well before the time that you claimed for the attack.’ He also said that, ‘it became clear that there was no longer a realistic prospect of conviction as the major aspects of your evidence were seriously undermined.’<sup>1294</sup>

732. As Nicholas Hilliard QC, lead Prosecution Counsel, later explained to the Court on 18 November 2010 during the pre-trial hearings:

*‘By the middle of this year she was speaking of in the order of 30 murders.*

*Checks were instituted by the investigation team into their own witness, which was obviously the proper course to take, for example, excavations into a number of alleged burial sites, examination of her computer, and so on, and all that contributed to a decision on 18 October of this year that she would not be used in these proceedings by the prosecution.*<sup>1295</sup>

## 9.2 Former PC Dean Vian

733. Dean Vian joined the Metropolitan Police as a Police Constable in 2003. He was the adopted son of Garry Vian, had been arrested on 21 April 2008, and was suspended and under investigation by the Metropolitan Police for misconduct in public office, theft and breach of the Data Protection Act.<sup>1296</sup> He had failed to report the discovery on 31 July 2006 of the covert listening device which had been placed at Glenn Vian’s home and he had been overheard offering to conduct an unlawful check on the Police National Computer for Glenn Vian and Kim Vian, although checks showed that he had not actually carried out the check.<sup>1297</sup> His case was referred to the Independent Police Complaints Commission on 22 April 2008.<sup>1298</sup> The Independent Police Complaints Commission decided to treat this investigation as a Supervised Investigation<sup>1299, 1300</sup>.

734. A file was sent to the Crown Prosecution Service which stated that there was insufficient evidence to prosecute PC Dean Vian for misconduct in public office, for theft, or for Data Protection Offences.<sup>1301</sup> A decision not to prosecute was made by the Crown Prosecution Service on 21 August 2008.

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1293 Letter from Stuart Sampson to Person J5, EDN001236001, pp1-2, 12 November 2010.

1294 Letter from Stuart Sampson to Person J5, EDN001236001, 12 November 2010.

1295 Hearing, p3, 18 November 2010.

1296 Witness statement of PC Dean Vian, MPS079156001, pp2-3, 17 June 2009; Advice file, MPS105621001, p8, 29 September 2008; File relating to PC Dean Vian, MPS108242001, pp18-22, 17 April 2008.

1297 Misconduct advice file of PC Dean Vian, MPS104561001, pp7-14, 29 April 2008.

1298 File relating to PC Dean Vian, MPS108242001, p32, 22 April 2008; Advice file, MPS105621001, p8, 29 September 2008.

1299 Prior to the legislation change in February 2020, Supervised investigation was a mode of investigation available to the Independent Police Complaints Commission. Under Supervised investigation, the police carried out the investigative work with oversight by the Independent Police Complaints Commission.

1300 Advice file, MPS105621001, p8, 29 September 2008.

1301 Crown Prosecution Service Advice re criminal offences Dean Vian, MPS104561001, pp86-88, 21 August 2008.

735. In July 2008, while still under investigation, PC Dean Vian offered to assist the Abelard Two Investigation. He was the last witness to come forward to assist the prosecution. He was a serving police officer. The information which he finally gave in statement form included information that his stepfather, Garry Vian, had told him that:

- i. He had not killed Daniel Morgan;
- ii. His brother Glenn Vian and James Cook had committed the murder.

736. His mother had told him that:

- i. Kim Vian bought the axe used to kill Daniel Morgan;
- ii. Glenn Vian had killed Daniel Morgan and James Cook drove the getaway car;
- iii. Glenn Vian and James Cook were each paid £8,000 for the murder, paid by Jonathan Rees;
- iv. Daniel Morgan had been murdered over a woman both Jonathan Rees and Daniel Morgan liked and because Jonathan Rees wanted to get the business;
- v. Glenn Vian and James Cook stole Daniel Morgan's watch and later smashed and buried it; and
- vi. *'Sid FILLERY was there to mop it up from the police point of view.'*<sup>1302</sup>

737. PC Dean Vian resigned from the Metropolitan Police on 18 August 2009.<sup>1303</sup> His evidence was assessed as relevant by Nicholas Hilliard QC and Jonathan Rees, barrister.<sup>1304</sup> Former PC Dean Vian was to be used as a prosecution witness and his statement was disclosed to the Defence.

### 9.3 The arrest of Kim Vian

738. Police investigated the allegation by former PC Dean Vian that his mother had told him that Kim Vian bought the axe used to murder Daniel Morgan. Police visited a particular establishment identified by former PC Dean Vian, showed an axe identical to that used to murder Daniel Morgan to the manager and enquired whether it was likely to have been purchased from them. The manager had worked there for 30 years and was able to produce an old ledger which confirmed that the shop had never sold that particular type of axe. He had never heard of the name Vian.<sup>1305</sup>

739. Kim Vian, aunt of former PC Dean Vian and wife of Glenn Vian, was arrested on 15 June 2009 on suspicion of conspiracy to murder.<sup>1306</sup> She was asked about:

- i. Information provided by Person X8 that Glenn Vian had murdered Daniel Morgan, that Person X8 had told former DS Sidney Fillery about it and that she, Kim Vian had confronted Person X8 about what he had said.<sup>1307</sup>

<sup>1302</sup> Witness statement of Dean Vian, MPS079156001, pp3-4, 17 June 2009.

<sup>1303</sup> Closing Report Operation Abelard II by DS Gary Dalby, MPS109597001 p4, 16 September 2011.

<sup>1304</sup> Admissibility of the evidence of Dean Vian, CLA000230001, pp1-6, 29 January 2010.

<sup>1305</sup> Action A2022, MPS068843001, 08 November 2008.

<sup>1306</sup> Evidence and actions book Kim Vian, MPS079806001, 15 June 2009.

<sup>1307</sup> Record of interview of Kim Vian, MPS109023001, pp2-3, 4.11pm to 4.30pm, 15 June 2009.



- ii. Information which had been received that she had bought the axe used to murder Daniel Morgan<sup>1308</sup>
- iii. DNA which had been found on the murder weapon. She was told that police believed it was her DNA (see paragraph 209 above).<sup>1309</sup> She made 'No comment' answers to all the questions which she was asked.

740. There is on file a signed, handwritten statement of 15 June 2009 in which, among other things, she denied any involvement in Daniel Morgan's murder and said that police had never spoken to her previously.<sup>1310</sup>

741. There being insufficient evidence against her, no further action was taken.

## **10 The indictment against the five Defendants in 2008**

742. There were two counts on the indictment which sets out the crimes alleged to have been committed. The first count on the indictment was for the murder of Daniel Morgan on 10 March 1987. Four of the Defendants were charged with this offence: Jonathan Rees, James Cook, Glenn Vian and Garry Vian.<sup>1311</sup>

743. The second count on the indictment was for doing an act tending and intended to pervert the course of justice. Former DS Sidney Fillery alone was charged with this offence. The particulars of the offence were as follows: *'Sidney Fillery on a day unknown between the 10th day of March 1987 and the 31st day of December 1987 with intent to pervert the course of justice, namely the investigation of the murder of Daniel Morgan, did an act which had a tendency to pervert the course of justice in that he made threats against the life of Gary Eaton and his family.'*<sup>1312</sup>

## **11 The court hearings in R v Rees and Others 2008-2011**

744. There were a number of hearings in this case: some were for the purposes of considering whether those charged should be held in custody pending trial; others were pre-trial hearings to examine specific issues which needed to be determined before any trial could begin: in this case they related to the admissibility of Gary Eaton's evidence and various disclosure matters.

745. As stated above (see paragraph 69 above), disclosure counsel, Heather Stangoe, was appointed in July 2006 to oversee the disclosure of material for any forthcoming trial.<sup>1313,1314</sup>

746. At the outset, the Prosecution relied upon six main witnesses: Kevin Lennon, Person F11, James Ward, Person S15, Person X8 and, the Prosecution's principal witness, Gary Eaton. After the Defendants had been charged, three further witnesses provided evidence: Person D6, former PC Dean Vian, and Person J5.

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1308 Record of interview of Kim Vian, MPS109023001, pp5-9, 4.11pm to 4.30pm, 15 June 2009.

1309 Record of interview of Kim Vian, MPS109023001, pp8-9, 4.11pm to 4.30pm, 15 June 2009.

1310 Prepared statement of Kim Vian, MPS071363001, p2, 15 June 2009.

1311 Indictment re Fillery [...] Vian [...] Vian [...] Rees and [...] Cook [...], MPS104086001, p2, 24 July 2008.

1312 Indictment re Fillery [...] Vian [...] Vian [...] Rees and [...] Cook [...], MPS104086001, p2, 24 July 2008.

1313 Operation Abelard Oversight Panel Meeting, MPS108270001, p3, 9 August 2009.

1314 Terms of Reference of MPS/Crown Prosecution Service Abelard review, MPS109620001, p46, 26 July 2011.

747. There were difficulties with many of the Prosecution's witnesses, a number of whom had come forward as a result of agreements made under the Serious Organised Crime and Police Act 2005 (for example see section 6.4 above). Other witnesses were known to have previously been involved in serious criminal activity or, as Mr Justice Maddison subsequently put it, they were '*serious villains*'.<sup>1315</sup> Others provided testimony based on hearsay evidence or provided conflicting accounts.<sup>1316</sup>

748. When the proceedings ended on 11 March 2011, only five main witnesses remained: Kevin Lennon, Person S15, Person X8, Person D6 and former PC Dean Vian. The other witnesses had been either abandoned by the Prosecution or their evidence had been ruled as inadmissible by Mr Justice Maddison.<sup>1317</sup>

### 11.1 The 2008 bail hearings

749. During 2008, there were a number of bail hearings before His Honour Judge Brian Barker QC.

750. Former DS Sidney Fillery who faced the lesser charge of attempting to pervert the course of justice was granted bail on 06 August 2008.<sup>1318</sup> The other four Defendants, Jonathan Rees, James Cook, Glenn Vian and Garry Vian, who were charged with murder, remained in custody until 03 March 2010.<sup>1319</sup>

751. Following an unsuccessful bail application by Jonathan Rees on 27 November 2008, His Honour Judge Brian Barker QC observed that '[Mr Christie QC] *submits that Mr Eaton in particular and the other prosecution witnesses in general are seriously flawed,*'<sup>1320</sup> and '*[i]n particular, Eaton is someone who has a history of psychiatric and alcoholic problems and is said by his wife to be a compulsive liar.*'<sup>1321</sup> The Prosecution conceded '*valid criticism can be laid at his [Garry Eaton's] door, and also the door of each of the other new witnesses.*'<sup>1322</sup>

752. The Prosecution made the decision to continue prosecuting the four Defendants who faced the charge of murder, despite the acceptance of the inherent problems caused by relying on Gary Eaton as a main witness. However, the flaws in Gary Eaton's evidence became more apparent in the months and years that followed.

753. The focus of the Prosecution's argument in the bail application was that Jonathan Rees had the means and propensity to intimidate witnesses, as well as the '*experience and contacts*' to abscond.<sup>1323</sup> These arguments were ultimately successful. His Honour Judge Brian Barker QC concluded:

*'In looking at the overall picture, it is my view that the prosecution have established that there are substantial grounds for believing that the applicant will fail to surrender;*

<sup>1315</sup> Record of proceedings, Central Criminal Court R v Rees, Fillery, Vian, Vian and Cook, CLA000204001 p173, 17 July 2009.

<sup>1316</sup> Record of proceedings, Central Criminal Court R v Rees, Fillery, Vian, Vian and Cook, CLA000204001, pp170-173, 17 July 2009.

<sup>1317</sup> Hearing, pp8-16, 11 March 2011.

<sup>1318</sup> Successful bail application of Sidney Fillery before HHJ Barker at the Central Criminal Court, MPS104129001, pp2-4, 06 August 2008.

<sup>1319</sup> Prosecution Application to further extend custody time limits, CLA000144001, pp1-2 and 25, 03 March 2010.

<sup>1320</sup> Unsuccessful application for bail by Jonathan Rees, MPS104495001, p10, 27 November 2008.

<sup>1321</sup> Unsuccessful application for bail by Jonathan Rees, MPS104495001, pp11-12, 27 November 2008.

<sup>1322</sup> Unsuccessful application for bail by Jonathan Rees, MPS104495001, pp8-9, 27 November 2008.

<sup>1323</sup> Unsuccessful application for bail by Jonathan Rees, MPS104495001, p8, 27 November 2008.

*and further, that if granted his liberty, that he will take the opportunity to obstruct the course of justice by interfering with witnesses and therefore the application, I am afraid, is refused.*<sup>1324</sup>

## 11.2 The 2009 hearings

754. On 20 March 2009, Mr Justice Maddison ruled that the trial should begin on 05 October 2009. He also directed that the hearing of an application by the Defence, to stay the proceedings<sup>1325</sup> as an abuse of process of the court, should begin on 16 September 2009.<sup>1326</sup>

755. The court has an inherent power to stop proceedings if there has been an abuse of process<sup>1327</sup> in order to *'ensure that executive agents of the state do not misuse the coercive, law enforcement functions of the courts and thereby oppress citizens of the state'*.<sup>1328</sup>

756. Between 21 and 23 April 2009, there was a contested application to extend the Defendants' custody time limits. At this point, Jonathan Rees, James Cook, Glenn Vian and Garry Vian had already been imprisoned for a year, and the trial date had been postponed. Despite the Defence's arguments, His Honour Judge Brian Barker QC extended the custody time limit to 12 October 2009.<sup>1329</sup>

757. On 27 April 2009, Mr Justice Maddison directed that the hearing of the abuse of process application would be postponed to 12 October 2009, with the trial to follow if the abuse of process application failed. Mr Justice Maddison directed that custody time limits should be extended to 23 October 2009.<sup>1330</sup>

758. Following a hearing on 17 July 2009 Mr Justice Maddison ordered that a transcription service should be used for all subsequent hearings. These transcripts have provided the Panel with a much clearer account of how these later hearings unfolded as well as the causes of the eventual collapse of the Prosecution's case.

759. On 12 October 2009, Mr Justice Maddison considered the issue of jury protection in advance of any future trial and ruled that jury members should be referred to by number rather than name to anonymise them, something which was not strongly contested by the Defence.<sup>1331</sup> The more contentious issue was whether the jurors should be escorted to and from court by Metropolitan Police officers.<sup>1332</sup> The Defence expressed *'extreme concern about the idea of the Metropolitan police officers supervising the jury in any fashion'*.<sup>1333</sup> The Defence *'vehemently opposed'*<sup>1334</sup> the use of Metropolitan Police officers because of the civil actions brought against the Metropolitan Police following previous investigations of, and arrests relating to, the murder

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1324 Unsuccessful application for bail by Jonathan Rees, MPS104495001, p8, 27 November 2008.

1325 To stay proceedings: this is when a judge halts or terminates court proceedings.

1326 Hearing, p69, 18 December 2009.

1327 Hearing, p68, 18 December 2009.

1328 *R v Looseley* [2001] UKHL 53; [2001] 1 W.L.R. 2060 per Lord Nicholls at [1]

1329 Judges ruling for custody time limit ruling application, MPS105032001, p7, 27 April 2009; and Submissions and ruling, EDN000265001, pp68-70, 18 December 2009.

1330 Hearing, pp68-70, 18 December 2009.

1331 Hearing, p56, 12 October 2009.

1332 Hearing, p2, 12 October 2009.

1333 Hearing, p57, 12 October 2009.

1334 Hearing, p56, 12 October 2009.

of Daniel Morgan.<sup>1335</sup> Mr Justice Maddison agreed that some transportation arrangement to bring the jurors to court would be appropriate but asked the parties to look into the possibility of using police officers from another force.<sup>1336</sup>

## 11.3 The Abuse of Process Hearing

### 11.3.1 The applications

760. The abuse of process hearing began on 12 October 2009. The hearing, originally scheduled to last for a few days, continued for almost two months, such was the complexity and scale of the material which was required to be considered. As Mr Justice Maddison explained in his ruling on 18 December 2009, *‘though I was aware that this was a case of some complexity, I had expected the applications to stay the proceedings to be dealt with in a matter of days rather than weeks. I had not anticipated the receipt in September and October of over 460 pages of written submissions, supported by more than eight lever-arch files of supporting materials excluding files of legal authorities.’*<sup>1337</sup>

761. The initial issues raised by the Defence lawyers resulted from the delay in bringing proceedings. Many such issues concerned the evidential and procedural failures of the previous investigations (considered in previous chapters) which it was too late to rectify. The key matters raised were as follows:

- i. Breach of Article 6 of the European Convention on Human Rights in that the matter had not been dealt with in a timely manner.<sup>1338</sup>
- ii. *‘The inadequacy of the original investigation, specifically:*
  - a. *The failure of the original investigation properly to investigate the murder leading to the loss of important evidence, particularly forensic and scientific evidence’;*<sup>1339</sup> and
  - b. *‘the Crown’s belated reliance on DNA evidence’*<sup>1340</sup> relating to a hair found on the murder weapon which was no longer capable of analysis because in 2007 mitochondrial DNA testing (a destructive technique) had been carried out which prevented subsequent microscopic examination, or any other examination, taking place.<sup>1341</sup>
- iii. Police failure to investigate around 40 different possible suspects for the murder of Daniel Morgan other than the Defendants.<sup>1342</sup>
- iv. Numerous instances of the loss of witnesses, through death, ill-health or disappearance.<sup>1343</sup>
- v. Insufficient information obtained from those witnesses who were interviewed.<sup>1344</sup>

1335 Hearing, p57, 12 October 2009.

1336 Hearing, p79-80, 12 October 2009.

1337 Submissions and ruling, EDN000265001, p71, 18 December 2009.

1338 Abuse of Process Skeleton Argument, MPS105535001, p3, 22 September 2009.

1339 Abuse of Process Skeleton Argument, MPS105535001, p3, 22 September 2009.

1340 Abuse of Process Skeleton Argument, MPS105535001, p3, 22 September 2009.

1341 Hearing, p144-145, 19 October 2009.

1342 Abuse of Process Skeleton Argument, MPS105535001, p4, 22 September 2009 and Hearing, p71, 18 December 2009.

1343 Abuse of Process Skeleton Argument, MPS105535001, p4, 22 September 2009 and Hearing, pp71-72, 18 December 2009.

1344 Hearing, pp116-145, 20 October 2009.

- vi. Instances of witnesses whose *'memories have demonstrably failed or apparently and disconcertingly improved.'*<sup>1345</sup>
- vii. Police misconduct in relation to placing improper pressure on no fewer than 11 actual or potential witnesses.<sup>1346</sup>
- viii. *'The loss of important documentation due to the effluxion of time, namely...:*
  - a. *accountancy and other original financial records for [Southern Investigations];*
  - b. *legal papers dealing with the conduct of the Belmont Car Auctions case...;*
  - c. *legal papers dealing with the conduct of the inquest by [Michael] Goodridge, [solicitor] on behalf of [Jonathan Rees];*
  - d. *legal papers dealing with the criminal case against [Kevin] Lennon and the script/benefits which he received as a result of offering to provide evidence against [Jonathan Rees];*
  - e. *legal papers relating to the case against [Person F11] for conspiracy to murder [James] Cook; and*
  - f. *legal papers in the Hill v Ward case.*<sup>1347</sup> According to the Defence submissions, *'Ward maintains that the Vians offered to kill a man called [...] whom Ward brought a repossession action against. It is alleged that they made incriminating comments in relation to the Morgan murder in this context [...]. The account of the proceedings given does not correspond with his recollection of them. Copies of the County Court papers and [...] defence file are no longer available'*<sup>1348</sup>
- ix. Multiple failures in the disclosure process, both in the form of complete failures to disclose relevant documents and in the form of the late disclosure of documents.<sup>1349</sup> Disclosure was still ongoing nearly two years after the Defendants had been charged.
- x. Use in the trial of many unproven allegations which would each need to be litigated at a pre-trial hearing in their own right.<sup>1350</sup>
- xi. Adverse publicity surrounding the case and, in particular, material on the internet which could be accessed easily by jurors and witnesses.<sup>1351</sup>

762. During the pre-trial hearings serious allegations of police misconduct arose. These involved numerous factual disputes between the Prosecution and the Defence. Mr Justice Maddison decided that it would be necessary to embark on a pre-trial hearing to examine the allegations. He said:

*'The allegations of police misbehaviour have been of considerable scale and complexity. These have been of misconduct of many different kinds on the part of*

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<sup>1345</sup> Hearing, p71, 18 December 2009.

<sup>1346</sup> Abuse of Process Skeleton Argument, MPS105535001, p4, 22 September 2009 and Hearing, p72, 18 December 2009.

<sup>1347</sup> Abuse of Process Skeleton Argument, MPS105535001, p4, 22 September 2009.

<sup>1348</sup> Abuse of Process Skeleton Argument, MPS105535001, p45, para 141 xiii, 22 September 2009.

<sup>1349</sup> Abuse of Process Skeleton Argument, MPS105535001, pp4-5, 22 September 2009, and Hearing, p72, 18 December 2009.

<sup>1350</sup> Abuse of Process Skeleton Argument, MPS105535001, p5, 22 September 2009.

<sup>1351</sup> Abuse of Process Skeleton Argument, MPS105535001, p5, 22 September 2009.



*numerous different officers of the Metropolitan Police, some of very senior rank, over a period of several years.*

*The misconduct is said to have been so serious as to justify a stay of the proceedings on the grounds that it would not be fair to try the defendants even if, which the defendants dispute, it would be possible for them to have a fair trial.*<sup>1352</sup>

#### 11.4 The pre-trial hearing on the alleged breach of the sterile corridor

763. Allegations were made that former DCS David Cook had had improper contact with Gary Eaton and had attempted to influence his evidence. Former DCS Cook informed the Panel on 07 March 2017 that he had asked ‘Senior Management’ *‘for these matters to be fully investigated, along with other concerns that [he] held with regard to the ongoing corruption within the MPS [Metropolitan Police Service] affecting the Morgan case.*<sup>1353</sup> He said that no such investigation had ever occurred.<sup>1354</sup>

764. Defence arguments relating to misconduct initially involved the allegation of a breach of the sterile corridor which had been required to protect the integrity of Gary Eaton’s evidence. Those arguments expanded to include the influencing of witnesses more generally.<sup>1355</sup>

765. In his statement of 24 May 2007, Gary Eaton had said that his father had died *‘about fourteen months ago.*<sup>1356</sup> The Abelard Two Investigation had been informed by the Witness Protection Unit that Gary Eaton’s father was still alive (see section 6.4.6 above). The Abelard Two Investigation was aware that if Gary Eaton’s father were still alive, then it would be necessary to conduct a risk assessment to identify any risk against him as a consequence of his son participating in the debrief. DI Douglas Clarke was instructed to ask Gary Eaton (who was in prison at that time), through his Witness Protection Officer, whether his father was still alive. This had been done. As stated above, according to DI Clarke, the Witness Protection Officer informed DI Clarke *‘that Gary Eaton’s father was alive and well but due to a dispute, which caused a rife [sic] between them Eaton no longer wanted any contact with him.*<sup>1357</sup> The Witness Protection Officer recorded that Gary Eaton advised contact with his sister for the last known address of father and he did not express any concerns about his father being contacted by police.<sup>1358</sup>

766. On learning about the visit to Gary Eaton in prison, DI Anthony Moore had reported that *‘[o]n the facts available, it would appear that [Gary Eaton] has had information given to him by his witness protection unit officer acting on instruction given by DI CLARKE. In turn it appears DI CLARKE has been acting on instruction of more senior officers unknown.*<sup>1359</sup> This report had not been disclosed to the Defence until 25 June 2009 and had therefore not been raised earlier in the proceedings.<sup>1360</sup> The Defence lawyers referred to this issue as ‘Mooregate’.

1352 Hearing, pp72-73, 18 December 2009.

1353 Letter from former DCS David Cook to Baroness Nuala O’Loan, 07 March 2017.

1354 Letter from former DCS David Cook to Baroness Nuala O’Loan, 07 March 2017.

1355 Hearing, pp83-84, 18 December 2009.

1356 Witness statement of Gary Eaton, MPS003951001, p1, 24 May 2007.

1357 Statement of DI Douglas Clarke, MPS107945001, p400, 18 May 2009.

1358 Report to Commander Stuart Osborne by Gary Eaton’s handler, MPS107945001, pp398-399, various dates.

1359 Report by DS Anthony Moore, MPS107945001, p396, undated.

1360 Abuse of Process Skeleton Argument, MPS105535001, p8, 22 September 2009.

767. When giving evidence in court, DI Anthony Moore was asked whether the reason he initially reported the incident was *'because with integrity you felt it was the right thing to do because you thought that it may be that the debrief process had been rattled, if not more than that, damaged in such a way that it might be seen to be an abuse of process of the court?'* DI Moore simply replied 'Yes'.<sup>1361</sup>

768. The Defence lawyers contended that the *'higher authority'*, referred to by DI Anthony Moore was former DCS David Cook.<sup>1362</sup> Former DCS Cook said that he had *'tasked Doug Clarke to make enquiries through the protection officer to find out, you know, it was a basic question, "Tell us what the situation is with regards to your father", to Eaton.'*<sup>1363</sup>

769. David Whitehouse QC, for the Defence, said *'I think Moorgate [sic] is at the heart of this, because if we are correct in the inferences we invite the court to draw it goes to the bad faith of the current investigation squad. That must inevitably poison the whole fruits of this particular enquiry. That is why we attach so much importance to it.'*<sup>1364</sup>

770. Thirteen police witnesses,<sup>1365</sup> including former DCS David Cook, T/DCI Noel Beswick, DI Douglas Clarke, DI Anthony Moore and DS Gary Dalby were called to give evidence regarding *'Mooregate'*.

771. DI Douglas Clarke did not deny that police officers in the investigation team had breached the sterile corridor but contended that it was necessary in order to protect Gary Eaton's father's safety. The Defence argued that this was untrue and that the police officers in question knew that the only justification for breaching the sterile corridor was to protect someone in immediate danger. Therefore, the officers had fabricated an excuse that Gary Eaton's father was in danger, when really they just wanted to alert Gary Eaton to the fact that he had been caught out lying.<sup>1366</sup> DI Clarke has maintained to the Panel, in 2020, that he did view the safety of Gary Eaton's father as a pressing issue and that *'time was of the essence'*. He explained, *'[w]e were working in a climate where the defendants not only had the knowledge and abilities to corrupt others, but also sufficient offending history showing that nothing was off the table.'*

772. The Defence relied on a document completed on 15 April 2008 and written by T/DCI Noel Beswick which stated *'[t]here is no current intelligence to suggest an actual threat to the persons outside the witness protection scheme.'*<sup>1367</sup> The Defence argued that this document directly undermined the assertion that Gary Eaton's father was at risk.<sup>1368</sup> However, in February 2008 when he conducted the risk assessment, T/DCI Beswick had believed, as stated by Gary Eaton on 24 May 2007, that his father was dead.

773. When asked *'Do you agree that there had been a breach of the sterile corridors system?'* Former DCS David Cook responded, *'I agree that there had been a breach but I also say that this was an incredibly difficult set of circumstances for us to deal with.'*<sup>1369</sup>

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1361 Hearing, p109, 17 November 2009.

1362 Hearing, pp44-55, 09 November 2009 and Hearing, p22, 10 November 2009.

1363 Hearing, p85, 01 December 2009.

1364 Hearing, p125, 02 November 2009.

1365 Submissions and ruling, EDN000265001, pp72-73, 18 December 2009.

1366 Hearing, pp32-35, 10 November 2009.

1367 Hearing, p97, 03 December 2009; Message M1058 from T/DCI Noel Beswick to DS Summers, MPS068421001, p1, 15 April 2008; Action A1884, MPS068421001, pp3-4, 30 April 2008 and Action A1884 to see [...], MPS068420001, 30 April 2008.

1368 Hearing, pp97-100, 03 December 2009.

1369 Hearing, pp117-118, 01 December 2009.

774. Former DCS David Cook also indicated during his evidence that he had thought it was permissible to approach Gary Eaton because he and/or the investigation team had thought that the debrief had been completed.<sup>1370</sup>

775. The Defence contended that DCS David Cook was in regular contact with Gary Eaton by telephone, and that he did not take any steps to prevent Gary Eaton calling him, and indeed, precipitated much of the contact.<sup>1371</sup> When challenged, former DCS Cook conceded that it was a ‘two way process’<sup>1372</sup> and that he had also contacted James Ward (another Assisting Offender) by telephone.<sup>1373</sup>

776. It was also alleged by the Defence that Gary Eaton had been permitted to break the rules and had received ‘*preferential treatment*’ at the behest of DCS David Cook.<sup>1374</sup>

777. Former DCS David Cook was also questioned about his contact with James Ward:

*‘You think that it is appropriate, do you, for the senior investigating officer to deal with a potential witness even if he wasn’t at that stage an actual witness by saying, “Tell me what you know. I’ll give you a head start. It was Glenn with the axe. Gary was there. Jimmy with a car. Over the car auction.” You think that is an appropriate way, do you, for a senior investigation officer to behave?’*

Former DCS Cook responded, *‘Under the circumstances I don’t see what was wrong with it because what we did was we went to see James Ward, right. He made it absolutely clear from the very beginning that there’s no way he was ever going to be a witness in this case so, therefore, we moved on to try to find out what information he was going to give us.’*

He was then asked, *‘Once you’ve fed the information to him of course there is no way he could be a proper witness in this case uncontaminated by the information that you, the SIO, have fed him?’*

He responded, *‘Well that was a matter for the debrief and the Crown Prosecution Service to determine.’*<sup>1375</sup>

778. David Whitehouse QC, Counsel for Glenn Vian, contended that DCS David Cook’s behaviour was part of a pattern which could be traced back to his 2002 interview with Paul Goodridge,<sup>1376</sup> (see Chapter 6, Abelard One/Morgan Two Investigation) saying that DCS Cook had given Paul Goodridge assurances in 2002 that no one would pursue him for the murder of Daniel Morgan, even though he had been a main suspect during the Hampshire/Police Complaints Authority Investigation. David Whitehouse QC pointed out that DCS Cook had told Paul Goodridge, *‘The conversation is in the hope that I can get something out so that I think [...] I think Cookie’s there’*<sup>1377</sup> [this was a reference to James Cook], that police were looking at the Vian brothers and there was a £50,000 reward for information.<sup>1378</sup>

1370 Hearing, pp85-86, 01 December 2009.

1371 Hearing pp32-33, 03 December 2009.

1372 Hearing, p38, 09 December 2009.

1373 Hearing, p41, 09 December 2009.

1374 Hearing, pp117-126, 01 December 2009.

1375 Hearing, pp131-132, 03 December 2009.

1376 Hearing, pp8-29, 07 December 2009.

1377 Hearing, p12, 07 December 2009.

1378 Hearing, p16, 07 December 2009.

779. David Whitehouse QC put it to former DCS David Cook: *'this is precisely in 2002 what we say you were doing with Ward and Eaton in later years? You have a potential witness. You are telling them the names of your suspects and you are telling them about the £50,000 reward.'*<sup>1379</sup> Former DCS Cook replied: *'This is a legitimate investigative practice. It was documented. It was taped. There was a decision made for my attendance at the scene that day. I wasn't going to go round and talk about the weather hoping we'd get some information about the murder.'*<sup>1380</sup>

780. The court then heard expert evidence from two consultant forensic psychiatrists concerning Gary Eaton's suitability as a witness and how easily he might be influenced.

781. Professor Nigel Eastman, a consultant forensic psychiatrist, provided expert evidence on behalf of the Defendants.<sup>1381</sup> His evidence focused on how personality disorders and psychopathy can lead to a propensity to untruthfulness and can also making lying harder to detect.<sup>1382</sup> He reviewed Gary Eaton's previous medical records which showed serious long-term behavioural problems and numerous consultations describing Gary Eaton's personality disorder which was of a psychopathic/sociopathic type.<sup>1383</sup> There was evidence of Gary Eaton's propensity to carry out violent attacks.<sup>1384</sup> Professor Eastman diagnosed Gary Eaton as having a severe antisocial or borderline personality disorder.<sup>1385</sup> Given the severity of his psychological problems Professor Eastman was of the opinion that an *'appropriate adult,'* as well as a solicitor, should have been present at Gary Eaton's debriefing interviews.<sup>1386</sup>

782. In addition, the court heard evidence from Dr Laurence Chesterman, another consultant forensic psychiatrist, who had been asked by the Prosecution to provide a report<sup>1387</sup> on Gary Eaton in response to Professor Nigel Eastman's report.<sup>1388</sup> Dr Chesterman contended that although Gary Eaton had severe personality problems, he did not have severe antisocial or borderline personality disorders, the two principal diagnoses which had been suggested by Professor Eastman.<sup>1389</sup>

#### 11.4.1 Former DS Sidney Fillery

783. On 22 October 2009 Counsel for former DS Sidney Fillery, submitted that *'it would be seriously unjust, we contend, to put Mr Fillery on trial now for an allegation of having made a verbal threat in a public house to Mr Gary Eaton over 20 years ago because such a course would represent a cynical misuse of the justice system by a career criminal for his own advantage and to the inevitable detriment of Mr Fillery'*.<sup>1390</sup> The charge against former DS Sidney Fillery, who had been granted bail on 06 August 2008,<sup>1391</sup> relied on an allegation by Gary Eaton that he had been threatened by former DS Fillery.

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1379 Hearing, p16, 07 December 2009.

1380 Hearing, p16, 07 December 2009.

1381 Hearing, p74, 26 October 2009.

1382 Hearing, pp100-101, 28 October 2009.

1383 Psychiatric Report Concerning Eaton, MPS105700001, p22, 18 October 2009.

1384 Hearing, pp73-75, 28 October 2009 and Psychiatric Report Concerning Eaton, MPS105700001, 18 October 2009.

1385 Psychiatric Report Concerning Eaton, MPS105700001, pp27-32, 18 October 2009.

1386 Psychiatric Report Concerning Eaton, MPS105700001, p27, 18 October 2009.

1387 Psychiatric Report on Gary Eaton by Chesterman, MPS107457001, 03 November 2009.

1388 Hearing, p3, 23 November 2009 and Psychiatric Report on Gary Eaton by Chesterman, MPS107457001, 03 November 2009.

1389 Hearing, p3, 23 November 2009.

1390 Extract of discussion from Hearing between Mr Justice Maddison and Counsel, CLA000139001, pp1-2, 22 October 2009.

1391 Successful bail application of Sidney Fillery before HHJ Barker at the Central Criminal Court, MPS104129001, pp2-4, 06 August 2008.

784. Counsel for former DS Sidney Fillery also asserted that at least one other police officer,<sup>1392</sup> had been accused of serious corruption by Gary Eaton but no charges had been brought against him.<sup>1393</sup>

785. Despite these arguments, Mr Justice Maddison did not stay the indictment against former DS Sidney Fillery at this stage.<sup>1394</sup>

### 11.5 Application to extend custody time limits: 16 and 18 December 2009

786. Following the abuse of process hearing, there was a custody time limits hearing held on 16 and 18 December 2009,<sup>1395</sup> as the Defendants' custody time limits had been extended on a rolling basis throughout the proceedings.

787. The Defence made a number of objections to extending the Defendants' time in custody. Objections to the ongoing remand in custody of the Defendants included:

- i. the fact that the Crown were aware of the 'Mooregate' point (alleged breach of the sterile corridor between Gary Eaton and the Abelard Two Investigation) 'as long ago as October 2008';<sup>1396</sup>
- ii. the continued service of large amounts of additional evidence by the Prosecution;<sup>1397</sup>
- iii. numerous disclosure issues;<sup>1398</sup> and
- iv. delays in providing expert evidence.<sup>1399</sup>

788. Nicholas Hilliard QC conceded that time had been lost dealing with the abuse of process arguments, but that material had come to light during the course of the abuse of process proceedings.<sup>1400</sup>

789. Despite expressing certain reservations, particularly in relation to the Prosecution's continued reliance on the evidence of Gary Eaton,<sup>1401</sup> Mr Justice Maddison granted the application to extend custody time limits for Jonathan Rees, James Cook, Garry Vian and Glenn Vian to 01 March 2010.<sup>1402</sup> Acknowledging the huge task faced by the prosecution he stated:

*'The extraordinary nature of the case has required the prosecution to undertake an exercise in disclosure of exceptional if not unprecedented proportions. They have had to consider what documents to disclose relating not only to the most recent investigation, itself of great length and complexity, but relating to all four of the earlier investigations. They have had to examine documents covering a period of more than 20 years. I am told that more than 500,000 pages of material have had to be examined in this connection. Remarkably further disclosable material is still being produced at the*

1392 Extract of discussion from Hearing between Mr Justice Maddison and Counsel, CLA000139001, pp10-11, 22 October 2009.

1393 Extract of discussion from Hearing between Mr Justice Maddison and Counsel, CLA000139001, pp10-11, 22 October 2009.

1394 Extract of discussion from Hearing between Mr Justice Maddison and Counsel, CLA000139001, p2, 22 October 2009.

1395 Hearing, pp1-142, 16 December 2009 and Submissions and Ruling, EDN000265001, 18 December 2009.

1396 Hearing, p49, 16 December 2009.

1397 Hearing, p57, 16 December 2009.

1398 Hearing, pp5-33, 18 December 2009.

1399 Hearing, p128-130, 16 December 2009.

1400 Hearing, p99, 16 December 2009.

1401 Submissions and ruling, EDN000265001, p67, 18 December 2009.

1402 Operation Abelard II Review, MPS109591001, p94, undated.



*present time in the form of the transcripts of the continuing debriefing interviews of the witness [Person J5]’.*<sup>1403</sup>

790. Mr Justice Maddison made the following comments about Gary Eaton:

*‘Despite the combined features of Eaton’s late arrival on the scene, his criminal and psychiatric history, his irresponsible, truculent and threatening attitude during the course of the debriefing, as it is alleged to have been, and despite further inconsistencies of account on his part and indeed numerous demonstrable lies on his part, he appears to be a witness on whom the prosecution rely and who they regard as important.’*<sup>1404</sup>

## 11.6 Early 2010 hearings

### 11.6.1 February 2010: the exclusion of Gary Eaton’s evidence and the stay of proceedings against former DS Sidney Fillery

791. On 15 February 2010, following the arguments made by counsel in late 2009, during the abuse of process hearings, Mr Justice Maddison stated that *‘I have concluded that should there be a trial then the evidence of Gary Eaton will be excluded pursuant to section 78 of the Police and Criminal Evidence Act of 1984’*<sup>1405</sup>. *That is for a combination of reasons, which I will explain in detail and depressing length in a judgment to be handed down at a later stage’*<sup>1406</sup> having reached the conclusion that in all the circumstances Gary Eaton’s evidence *‘would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it’*.<sup>1407</sup>

792. At the same hearing, Mr Justice Maddison ruled that the proceedings against former DS Sidney Fillery, who was not charged with murder but with perverting the course of justice, were to be stayed:<sup>1408,1409</sup>

*‘In Count 2 of the indictment, Sidney Fillery alone is charged with attempting to pervert the course of justice. The essence of the allegation against him is that following the murder of Daniel Morgan on 10 March 1987, which is charged against the other four defendants in Count 1 of the indictment, Sidney Fillery, then a serving police officer, approached Gary Eaton, a potential witness to the murder, and threatened him not to say anything about the murder to anyone, or he, Eaton, would get the same.’*<sup>1410</sup>

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1403 Operation Abelard II Review, MPS109591001, p86, undated.

1404 Hearing, p67, 18 December 2009.

1405 Section 78 of the Police and Criminal Evidence Act of 1984 provides that a court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it but that the trial should proceed.

1406 Extract from transcript of discussion between Mr Justice Maddison and counsel regarding exclusion of Gary Eaton’s evidence, CLA000128001, p1, 15 February 2010.

1407 Police and Criminal Evidence Act 1984, s 78.

1408 A stay of proceedings or ‘stayed’ is a ruling by the court in civil and criminal procedures, halting further legal process in a trial or other legal proceedings. This can be lifted and resumed based on events taking place after the stay is ordered. However, a stay is sometimes used as a tool to suspend proceedings indefinitely.

1409 Extract from transcript of discussion between Mr Justice Maddison and counsel regarding exclusion of Gary Eaton’s evidence, CLA000128001, p5, 15 February 2010.

1410 Extract from transcript of discussion between Mr Justice Maddison and counsel regarding exclusion of Gary Eaton’s evidence, CLA000128001, p2, 15 February 2010.

793. Mr Justice Maddison added:

*'Suffice it to say that the Prosecution's intended case against him depends solely on an account emerging for the first time nearly 20 years after the murder, and it is an account of a brief unrecorded conversation on a date unknown that could have taken place at any stage during the period, on Eaton's different accounts, of perhaps 18 months or so, now probably taking place some 22 or 23 years ago.*

*The account is given by a single witness for whose delay in coming forward there is no good reason, whose credibility generally it seems to me there is substantial reason to doubt.*<sup>1411</sup>

794. Mr Justice Maddison stated that it was *'of limited practical importance'* to stay the proceedings against former DS Sidney Fillery as an abuse of process as he had just excluded Gary Eaton's evidence, which had been the only evidence against former DS Fillery.<sup>1412</sup>

795. Members of the press were in attendance at the hearing. Mr Justice Maddison stated that in order to prevent any impingement *'on the integrity of any trial that may take place'* the press *'may report that [...] Sidney Fillery was discharged in the only count that affects him'* but no more than that.<sup>1413</sup>

## 11.7 Disclosure problems

796. The Abelard Two Investigation was protracted and lengthy. Thousands of documents had to be disclosed between 2008, when the Defendants were charged, and 2011 when proceedings collapsed. Extensive work was carried out by those responsible for disclosure to meet the many and varied requests emanating from the Defence. This was in addition to ensuring the provision of all relevant material to the prosecution during the even longer period of 2006 to 2011.

797. Serious problems relating to disclosure began to emerge in 2009. The complexity of those problems and the discovery of additional documents caused significant confusion which resulted in further pre-trial hearings.

798. There were five sets of issues in relation to batches of documents:

- i. 15-17 crates of materials about James Ward had been made available by the Directorate of Professional Standards to the Abelard Two Investigation in June 2007. Information about their content had been obtained by the investigation and the Directorate of Professional Standards had been advised that the crates could be returned to their secure storage with the proviso that access may be required in the future. None of their content was disclosed. Those crates were subsequently sent to the Abelard Two Investigation: 16 crates of documents were received on 19 November 2009, two further crates were received on 27 November 2009 (see paragraphs 805-823 below).<sup>1414</sup>

1411 Extract from transcript of discussion between Justice Maddison and counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, p4, 15 February 2010.

1412 Extract from transcript of discussion between Justice Maddison and counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, p3, 15 February 2010.

1413 Extract from transcript of discussion between Justice Maddison and counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, pp66-68, 15 February 2010.

1414 The Panel acknowledges that the total number of crates recorded to have been returned to storage in 2007 does not equal the number of crates which were recorded as having been sent to the Abelard Two Investigation in November 2009.

- ii. Eighty-one pages of documents relating to Person F11 were received by the Abelard Two Investigation in November 2009 (see paragraph 815 below).
- iii. A further crate of material relating to Person F11 was received by the Abelard Two Investigation on 10 February 2010 (see paragraph 817 below).
- iv. In March 2010, DS Gary Dalby learned that James Ward had been known by the pseudonym, Bert Roote and that documents relating to Bert Roote actually related to James Ward.<sup>1415</sup>
- v. On 04 March 2011, police realised they also had in the Abelard Two Exhibits Room three crates of unscheduled material, the existence of which had not been disclosed.<sup>1416</sup>

799. This situation contributed to the decision to offer no evidence against the remaining defendants. The detail of what happened is described in the sections which follow.

800. Between 2006 and 2011, the Abelard Two Investigation was also dealing with other cases arising as a consequence of Gary Eaton's evidence, and of evidence from Person J5. Those cases required investigation and the preparation of evidence for disclosure. Two of them had reached the stage of trial in the Crown Court. Those cases should have been referred to the Specialist Crime Directorate for investigation. DCS David Cook made the decision to investigate them at the same time as he investigated Daniel Morgan's murder. There is no indication in any of the papers that further resources were applied for to enable to additional work.

The absence of proper oversight during this phase of the Abelard Two Investigation meant that there was no mechanism to identify and address the problems which had arisen. This would have put significant pressure on the disclosure officers. This should not have happened.

## 11.8 Application to extend custody time limits, 02 and 03 March 2010: further problems

801. On 03 March 2010, a further application was made by the Prosecution to extend the custody time limits for the four remaining Defendants, Jonathan Rees, Garry Vian, Glenn Vian and James Cook. Until this point, the Prosecution had argued successfully that they had acted with all '*due diligence and expedition*' satisfying the Court so that the Defendants continued to be held in custody.<sup>1417</sup> However, as stated above, by this stage the police were aware that they had major disclosure problems.

802. The police had known about these problems in December 2009 when they had successfully applied to extend the custody time limits of the four defendants who were remanded in custody. The police had not disclosed these facts to the lawyers acting for the Defendants nor to Mr Justice Maddison.

<sup>1415</sup> Witness statement of former T/DCI Noel Beswick, MPS109748001, p60, para 226, 20 October 2016.

<sup>1416</sup> Witness statement of former T/DCI Noel Beswick, MPS109748001, pp68-69, paras 245-247, 20 October 2016.

<sup>1417</sup> R v Rees, Cook and the Vians: prosecution application for extension of custody limits, CLA000144001, 03 March 2010 and Prosecution of Offences Act 1985, s. 22(3).

803. On 06 February 2007, the Detective Constable had emailed A/DCI Noel Beswick referring to the money laundering investigation into James Ward which resulted from Operation Bedingham (see paragraph 236 above) saying:

*'[A Detective Inspector] and I have considered the position of our investigative material and where it impacts on your investigation.*

*'In relation to your future responsibilities to CPIA, we believe that our investigation does impact and definitely links up with yours. Our material could well become an important disclosure issue for your team in the future. Stuart SAMPSON is aware of all our unused material [...]'<sup>1418</sup>*

804. A/DCI Noel Beswick had forwarded the Detective Constable's email of 06 February 2007 to DCS David Cook.<sup>1419</sup> DCS Cook had replied to the Detective Constable on 06 February 2007 saying, *'I believe we should take responsibility for your material as it will be relevant to our investigation.'*<sup>1420</sup>

805. The Abelard Two Investigation had been aware that in addition to the Operation Bedingham investigation of James Ward and Garry Vian for drug offences for which they were convicted, and the consequential money laundering investigation of James Ward, there had been a previous money laundering investigation of James Ward and others which had resulted from Operation Two Bridges. A Detective Constable was asked to obtain the materials from this investigation. The Directorate of Professional Standards had then delivered between 15 and 17 crates of material to the Directorate of Professional Standards Financial Investigations Unit where information about their content was obtained by a Detective Constable of the Abelard Two Investigation who extracted copies of two files relating to the money laundering charges against James Ward and others to the Crown Prosecution Service and Counsel's advices. Former T/DCI Noel Beswick stated, in 2016, that it had been established that the Abelard Two Investigation already had copies of these documents and he and DCS David Cook made the decision that the crates could be returned to the Directorate of Professional Standards secure store *'with the proviso that Abelard II may need access to them in the future.'*<sup>1421</sup> The crates had then been returned to the Directorate of Professional Standards in June 2007.

806. During the hearing on 02 March 2010, T/DCI Noel Beswick said that he and DCS David Cook sent the crates back because they could not see the relevance of the money laundering investigation case to the murder of Daniel Morgan in 1987.<sup>1422</sup> Mr Justice Maddison was critical of this reasoning, later commenting that *'once we have a situation in which there were reasonable grounds to suspect [James] Ward of complicity in money-laundering irrespective of counsel's final decision then that would point to documents relating to the money-laundering being disclosable as regards credibility.'*<sup>1423</sup> Mr Justice Maddison went on to rule that the crates did contain important relevant disclosable material relating to James Ward's credibility as a witness, because it related to the money laundering charges.<sup>1424</sup>

1418 Email to A/DCI Noel Beswick from the Detective Constable, MPS095805001, 06 February 2007.

1419 Email from A/DCI Noel Beswick to DCS David Cook, MPS095810001, 06 February 2007.

1420 Email from DCS David Cook to the Detective Constable, MPS095810001, 06 February 2007.

1421 Witness statement of former T/DCI Noel Beswick, MPS109748001, p53, para 197, 20 October 2016.

1422 Hearing, p38, 02 March 2010.

1423 Hearing, p80, 02 March 2010.

1424 Mr Justice Maddison Judgment, CLA000144001, p19, 03 March 2010.

807. It was reported that in the intervening two and a half years, the Abelard Two Investigation had made several requests to the Directorate of Professional Standards for further material relating to the two witnesses, Person F11 and James Ward, but little or no material was forthcoming. Eventually, T/DCI Noel Beswick sent DI Douglas Clarke to the Directorate of Professional Standards' secure store on 16 November 2009 either to search the archives himself or take a statement from those who claimed to have searched the archives. Following that visit, the Directorate of Professional Standards identified 18 crates of potentially relevant material.<sup>1425</sup> Sixteen of these crates were sent to the investigation team on 19 November 2009. The two remaining crates were sent on 27 November 2009.

808. Initially, T/DCI Noel Beswick was not aware that these crates, which the Directorate of Professional Standards had produced, were the very same crates that had been in the Directorate of Professional Standards Financial Investigation Unit's possession in 2007 (see paragraph 805 above) and he was angry that they had been overlooked.<sup>1426</sup>

809. On 20 November 2009 at 6.15 pm, T/DCI Noel Beswick sent an email to DI Bernie Greaney at the Directorate of Professional Standards, which included the following passages: *'The murder case currently at the Old Bailey is in the most severe jeopardy because of this issue. We will have to review this material for disclosure, we will have to inform the defence we have this material,'*<sup>1427</sup> in relation to the upcoming custody time limits hearing which took place in December 2009 he continued: *'[...] how on earth we can show due diligence when the DPS has had this stuff all the time?'*<sup>1428</sup> AC John Yates, DCS Hamish Campbell and former DCS David Cook were copied into the email.<sup>1429</sup> AC Yates replied stating *'I am hugely unimpressed.'*<sup>1430</sup>

810. On the same day, 20 November 2009, at 6.22 pm, T/DCI Noel Beswick informed prosecution counsel, Nicholas Hilliard QC and Jonathan Rees, barrister, of the crates. Later that evening, Nicholas Hilliard QC had a telephone call with T/DCI Beswick to discuss it and had directed that the material should be examined.<sup>1431</sup>

811. On 22 November 2009, DS Gary Dalby wrote a briefing note for other members of the investigation team which stated: *'We are currently at court fighting an application to stay on the grounds of abuse of process. It is imperative this material is catalogued and assessed for the purposes of disclosure quickly and effectively.'*<sup>1432</sup> These documents show that T/DCI Noel Beswick was acutely aware of the urgent situation.<sup>1433</sup>

812. On 23 November 2009, AC John Yates, DCS Hamish Campbell, former DCS David Cook and T/DCI Noel Beswick, met with representatives of the Directorate of Professional Standards to discuss the crates of material.<sup>1434</sup>

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1425 Hearing, pp42-44, 02 March 2010.

1426 Hearing, pp60-62, 02 March 2010.

1427 Email from T/DCI Noel Beswick to DI Greaney, CLA000147001, p2, 20 November 2009.

1428 Email from T/DCI Noel Beswick to DI Greaney, CLA000147001, p2, 20 November 2009.

1429 Email from T/DCI Noel Beswick to DI Greaney, CLA000147001, p2, 20 November 2009.

1430 Email from T/DCI Noel Beswick to DI Greaney, CLA000147001, p2, 20 November 2009.

1431 Email trail between T/DCI Noel Beswick and Nicholas Hilliard QC, November 2009 and March 2010.

1432 Other Document D3915, Briefing for officers, MPS105873001, p1, 22 November 2009.

1433 Mr Justice Maddison judgment, CLA000144001, pp14-15, 03 March 2010.

1434 Hearing, pp58-62. 02 March 2010.



813. It is not known what happened at this meeting, but by 23 November 2009 those responsible for the Abelard Two Investigation were fully aware that there was a possible major problem of non-disclosure which had not been made known to the Court or those acting for the defendants. This would have put significant pressure on the disclosure officers.

814. Between 23 and 27 November 2009, *'the scheduling of the contents of the 16 crates was carried out [...] [a]nd [...] the scheduling of the contents of the other two crates was completed on the same day that they were received, namely the 27 November'*.<sup>1435,1436</sup>

815. In addition to the major problem concerning the material relating to James Ward, 81 pages of material relating to Person F11 had been found at another former Directorate of Professional Standards office in November 2009, and the Defendants had been advised of this prior to the hearing on 18 December 2009. On 21 December 2009, this material was disclosed to the Defendants.<sup>1437</sup>

816. On 12 January 2010, the Prosecution served a further disclosure schedule on the Defendants.<sup>1438</sup>

817. On 10 February 2010, DS Gary Dalby emailed all the Defence teams and invited them to inspect a crate of material relating to Person F11, which had been identified as a consequence of further enquiries and had been delivered to the Abelard Two offices that day.<sup>1439</sup> On 15 February 2010, a further disclosure schedule was served on the Defendants.

818. On 22 February 2010, the solicitor representing Glenn Vian who had gone to inspect papers which had previously been disclosed, discovered T/DCI Noel Beswick's email to DI Bernie Greaney of 20 November 2009 among the papers which had been disclosed (as set out above).<sup>1440</sup> This was the first time that Defence Counsel had become aware of the existence of the 18 crates<sup>1441</sup> and, as Mr Justice Maddison noted on 26 February 2010, *'[i]f she had not discovered it then, then this hearing, like the last hearing, would have gone off in ignorance of all of this.'*<sup>1442</sup>

1435 Hearing, p65, 02 March 2010.

1436 The term 'schedule' refers to the process of reviewing and cataloguing documents to identify and summarise the key elements. It is designed to assist the disclosure team.

1437 R v Glenn Vian and others: opposition to the Crown's application to extend the custody time limits served on behalf of the Defence, CLA000155001, p6, 20 November 2009 and Witness statement of former T/DCI Noel Beswick, MPS109748001, p59, para 221, 20 October 2016.

1438 Disclosure schedule, MPS006949001, 12 January 2010.

1439 Witness statement of former T/DCI Noel Beswick, MPS109748001, p59, paras 221-222, 20 October 2016.

1440 Mr Justice Maddison judgment, CLA000144001, pp17-18, 03 March 2010.

1441 Hearing, pp115-116, 02 March 2010.

1442 Hearing, p32, 26 February 2010.

819. In his statement in October 2016, prepared for the civil proceedings (see Chapter 9, Post Abelard Two), DS Gary Dalby stated that on the morning of 26 February 2010, outside court, when asked by Nicholas Hilliard QC whether he was aware of any material from within the 18 crates that undermined the prosecution case, he responded ‘No’.<sup>1443</sup> T/DCI Noel Beswick also noted that *‘there was no undermining or assists material’* from the 18 crates.<sup>1444</sup>

820. A compilation schedule of the material in the 18 crates relating to James Ward was eventually provided to the Defence on 28 February 2010. A lever arch file containing copies of some of the material was provided to the Defence on 01 March 2010.<sup>1445</sup>

821. During the course of the opposed application to extend the custody time limits on 02 March 2010, the Defence expressed their significant concern about the sequence of events. In his evidence that day, T/DCI Noel Beswick could not *‘pinpoint’* when he realised that the 18 crates were the same crates which were available in 2007 (see paragraph 805 above),<sup>1446</sup> but said it appeared to have been around the time when the crates were being scheduled in November 2009.<sup>1447</sup> Mr Justice Maddison noted that this *‘must have come as quite a shock’*.<sup>1448</sup>

822. The Defence alleged that a decision had been made by the investigation team not to disclose the existence of the crates as it might *‘imperil’* the extension of custody time limits.<sup>1449</sup> However, Mr Justice Maddison stated in his ruling that there was no evidence presented to suggest that the crates were deliberately concealed: *‘I should like to make it clear that I have no reason to believe that I or the defence were deliberately misled.’*<sup>1450</sup>

823. Mr Justice Maddison’s subsequent evaluation of this *‘sorry tale’*<sup>1451</sup> was, however, damning: *‘[A] clearer example of a lack of due diligence and expedition is difficult to imagine.’*<sup>1452</sup> As Mr Justice Maddison noted in his subsequent judgment: *‘If I needed any support for the conclusion that there has been a lack of due diligence and expedition I would find it in the fact that the general process of disclosure is still continuing after all this time’*.<sup>1453</sup> He stated: *‘I reach my conclusion about lack of due diligence and expedition based really exclusively, as I think I am entitled to do, on the sorry tale of the crates and their contents.’*<sup>1454</sup>

824. After giving his view that there were still *‘substantial grounds to believe that if released on bail they would fail to attend’*<sup>1455</sup> and *‘a suspicion that there will be interference with witnesses’*<sup>1456</sup> Mr Justice Maddison released Jonathan Rees, Garry Vian, Glenn Vian and James Cook on bail on 03 March 2010, following nearly two years of imprisonment, subject to the following bail conditions:

- i. *‘that they live and sleep at an address known to the police’;*

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1443 Statement of DS Gary Dalby used during Rees and Others v The Commissioner civil action at the Royal Courts of Justice January 2017, MPS109682001, p16, para 81, 20 October 2016.

1444 Email trail between TDCI Noel Beswick and Nicholas Hilliard QC, 03 March 2010.

1445 Hearing, pp76-80. 02 March 2010.

1446 Hearing, p63, 02 March 2010.

1447 Mr Justice Maddison judgment, CLA000144001, pp15-16, 03 March 2010.

1448 Mr Justice Maddison judgment, CLA000144001, p16, 03 March 2010.

1449 Hearing, pp25-28, 26 February 2010.

1450 Mr Justice Maddison judgment, CLA000144001, p22, 03 March 2010.

1451 Mr Justice Maddison judgment, CLA000144001, p21, 03 March 2010.

1452 Mr Justice Maddison judgment, CLA000144001, p22, 03 March 2010.

1453 Mr Justice Maddison judgment, CLA000144001, p23, 03 March 2010.

1454 Mr Justice Maddison judgment, CLA000144001, p24, 03 March 2010.

1455 Hearing, p35, 03 March 2010.

1456 Hearing, p36, 03 March 2010.

- ii. a curfew between 8.00 pm and 7.00 am as well as a ‘doorstep’ condition, which required each Defendant to present himself to a police officer at the door of the prescribed address at any time during the curfew period;
- iii. that each defendant report to a police station every evening ‘*between 5 and 7 o’clock*’;
- iv. that each of the defendants surrender their passports or any other travel document within seven days;
- v. that ‘*none of the defendants should apply for any further travel documents or passport*’; and
- vi. finally, that ‘*each defendant must not contact or interfere with or cause surveillance to be conducted upon any police officer or prosecution witness in the case for any reason either in person or through a third party.*’<sup>1457</sup>

825. After this hearing, the parties continued to deal with the ongoing disclosure problems.

826. In March 2010, having already identified disclosure difficulties relating to James Ward and Person F11, DS Gary Dalby realised that James Ward had been known by the pseudonym, Bert Roote, and that documents relating to Bert Roote actually related to James Ward.<sup>1458</sup>

827. Nine months later, on 20 December 2010, after numerous enquiries were carried out by the Abelard Two Investigation team to locate documentation in relation to James Ward’s previous informant details, DS Gary Dalby received an email from the owners of the national database ‘*confirming that James WARD, Bert ROOTE and Jack BAKER were all the same person.*’<sup>1459</sup> This meant that documentation which might be relevant to the prosecution of the four defendants had not been identified, and hence they had not been analysed or disclosed as might have been required.

### **11.9 Hearing 18 November 2010: Not Guilty verdict entered for James Cook and the exclusion of the evidence of Person F11**

828. A further hearing was scheduled for 18 November 2010, and Mr Justice Maddison began the proceedings by informing Counsel that he had ‘*received a letter from solicitors acting on behalf of members of Daniel Morgan’s family expressing concern about the delays that have been encountered in this case.*’<sup>1460</sup>

829. Nicholas Hilliard QC, lead Prosecution Counsel, then told the court that the Prosecution was offering no further evidence against James Cook. The evidence of Person J5, a key witness against James Cook, had been withdrawn due to her unreliability on 18 October 2010.<sup>1461</sup>

830. Hearsay evidence against James Cook was excluded by Mr Justice Maddison.<sup>1462</sup> Therefore, the only remaining evidence implicating James Cook in the murder of Daniel Morgan was the witness statement of Person F11 obtained in 1999, following Person F11’s ‘*arrest for, among other things, soliciting the murder of*’ James Cook.<sup>1463</sup> Person F11 had subsequently

1457 Hearing, pp36-38, 03 March 2010.

1458 Witness statement of former T/DCI Noel Beswick, MPS109748001, p60, para 226, 20 October 2016.

1459 Witness statement of former T/DCI Noel Beswick, MPS109748001, p66, para 235, 20 October 2016

1460 Hearing, p1, 18 November 2010.

1461 Hearing, pp2-4. 18 November 2010.

1462 Hearing, p4, 18 November 2010.

1463 Hearing, p4, 18 November 2010.

claimed that this statement was ‘*taken from him under duress*’ and that his solicitors had possession of a tape proving this.<sup>1464</sup> Person F11 would therefore have been a hostile witness, whose evidence could not be relied on.

831. On 18 November 2010, the Prosecution therefore offered no evidence against James Cook, having decided that there was no longer a realistic prospect of conviction ‘*given that the central evidence would be from a hostile witness and in particular from [Person F11]*’.<sup>1465</sup> Mr Justice Maddison directed a verdict of not guilty against James Cook.

### **11.10 The second pre-trial hearing about the 18 crates of evidence, 17 January 2011 – 11 February 2011**

832. Following the revelations in relation to the 18 crates (see paragraphs 808-826 above), the Defence argued that DS Gary Dalby had attempted to conceal the fact that there was disclosable material in the 18 crates, and that the police had deliberately contrived to mislead Prosecution Counsel and the court about the relevance of the material in the crates, so that the Defendants would remain incarcerated in December 2009.

833. A pre-trial hearing was therefore established to examine the circumstances surrounding the recovery and analysis of the contents of the 18 crates. The hearing began on 17 January 2011 and was brought to a close by intervening events on 11 February 2011. The court heard live evidence from the three police officers who were tasked with initially reviewing the crates: DS Nicholas Atherton,<sup>1466</sup> DC Christopher Winks<sup>1467</sup> and a Detective Constable.<sup>1468</sup>

834. Live evidence was also heard from DS Gary Dalby, T/DCI Noel Beswick and an officer serving in the Directorate of Professional Standards.<sup>1469</sup>

835. The three officers who initially reviewed the crates had all been appointed to disclosure duties on the investigation on 23 November 2009, the Monday after the crates had been discovered again. None of the three officers were part of the original disclosure team nor had they received the training necessary to either carry out a disclosure exercise or identify disclosable documents.<sup>1470</sup>

836. The job of the three officers was to schedule the documents in the crates, flagging any documents they thought might be relevant. These schedules were then sent to the disclosure team. Both the schedules and the material in the crates were then to be subject to a proper disclosure review by the disclosure team, which was led by DS Gary Dalby and included two Detective Constables and a Detective Sergeant.<sup>1471</sup>

837. Mr Justice Maddison encapsulated the purpose of the task of the three police officers in his question to DS Nicholas Atherton on 18 January 2011, ‘*[...] you understood that the disclosure team would review all the material for disclosure but your schedules would speed up their task?*’ DS Atherton replied, ‘*Yes.*’<sup>1472</sup>

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1464 Hearing, p5, 18 November 2010.

1465 Hearing, p5, 18 November 2010.

1466 Hearing, pp10-107, 18 January 2011.

1467 Hearings, pp107-143, 18 January 2011; pp7-141, 25 January 2011; and, pp2-159, 26 January 2011.

1468 Hearing, pp2-80, 31 January 2011.

1469 Hearing, p55-58, 11 February 2011.

1470 Hearing, p119, 18 January 2011.

1471 Hearing, p49, 18 January 2011.

1472 Hearing, p73, 18 January 2011.

838. DS Gary Dalby underwent eight days of examination and cross-examination about his handling of these matters. The core of the argument against him was that by the time the custody time limits hearing took place in February 2010, DS Dalby had had the 18 crates in his possession for over three months.<sup>1473</sup> Despite the initial scheduling of material no proper disclosure had taken place.

839. Mr Justice Maddison asked DS Gary Dalby, *'What, if anything, had been done between the completion of those schedules and the drawing up of the master schedule [...] and 26 February? Let's concentrate on that day first.'* DS Dalby replied *'Unfortunately nearly nothing. That's my fault. I was just too busy.'*<sup>1474</sup>

840. However, Nicholas Hilliard QC in his submissions at the custody time limits hearing in February 2010, had indicated that he had been given the impression that there was nothing of relevance in the crates. He had therefore inadvertently misled the court as to the nature of the documents contained in the crates. There was no suggestion by the Defence or by Mr Justice Maddison that Nicholas Hilliard QC had deliberately misled the court.<sup>1475</sup>

841. The Defence argued that, logically, at some point prior to the custody time limit hearing, DS Gary Dalby would have been asked whether there was any material in the crates which undermined the prosecution or assisted the Defence and gave the impression to Prosecution Counsel that there was not.<sup>1476</sup>

842. DS Gary Dalby said that he had asked the three officers reviewing the crates to bring any such material to his attention and they had not. However, on the evidence of those three officers, and by DS Gary Dalby's own admission, those three officers were not disclosure officers and had not been provided with sufficient training to conclusively recognise documents which might undermine the Prosecution or assist the Defence.<sup>1477</sup>

843. Since the initial assessment of the crates had been carried out by officers who were unqualified to assist, it was agreed that no proper disclosure of this material was undertaken until March 2010.<sup>1478</sup>

844. By February 2010, DS Gary Dalby had begun amending the schedules of documents contained in the 18 crates. Mr Justice Maddison questioned DS Dalby about why he had amended entries in the schedule to read *'not relevant to Abelard. Does not impact on the case'*<sup>1479</sup> when he had not yet reviewed the documents to which the entries referred to:

*'MR JUSTICE MADDISON: ...All right it could have been changed, but you were putting down "does not impact on the case" before you had looked at the documents themselves?*

*A. I was standardising the entry. That's all I was doing.*

*MR JUSTICE MADDISON: Why not just leave it blank: "I haven't looked at these documents. I just can't express an opinion one way or the other." Why put down something that you were simply not able properly to put down?*

<sup>1473</sup> Hearing, pp83-84, 31 January 2011.

<sup>1474</sup> Hearing, p105, 31 January 2011.

<sup>1475</sup> R v Glenn Vian and others: Defence closing submissions: 'Rootegate', CLA000162001, 25 February 2011.

<sup>1476</sup> Hearing, pp97-100, 31 January 2011.

<sup>1477</sup> Hearing, pp97-100, 31 January 2011.

<sup>1478</sup> Hearing, p113, 31 January 2011.

<sup>1479</sup> Hearing, p40, 1 February 2011.



*A. Because it hadn't been through the disclosure review. I think DC Winks – -*

*MR JUSTICE MADDISON: All right, exactly. "I'm sorry, I'm overwhelmed. I've got no time." If I may say so, purely personally I would have had every sympathy with that. "I just haven't had time. I'm not able to express an opinion one way or the other. Let's wait and see." Instead of which you have actually put down something which is just not right... and about documents that you hadn't inspected?"<sup>1480</sup>*

845. On 19 January 2011, T/DCI Noel Beswick was informed that two crates of material relating to James Ward, under the pseudonym Jack Baker, had been found in a disused police station. In one of the documents there was an indication that James Ward had '*ordered an associate to kill another person, (person A). Person A was not killed [...]*' but the information stated that '*James Ward threatened the same associate with death if he carried on business with person A.*'<sup>1481</sup> Throughout his debrief James Ward had maintained that he was not a violent person.<sup>1482</sup>

846. The discovery of this material seriously undermined the credibility of James Ward. As a consequence of these matters and the failure to identify the two other names used by police to refer to James Ward, the Prosecution finally decided that they could no longer rely on the evidence of James Ward and he was abandoned as a witness on 24 January 2011. Nicholas Hilliard QC asserted that this meant that by early 2011 the Prosecution had lost Gary Eaton, Person J5, James Ward and Person F11 as witnesses, leaving the case '*very finely balanced*'.<sup>1483</sup>

#### **11.10.1 The four additional crates**

847. On 04 March 2011, police realised they had in the Abelard Two Exhibits Room three crates of unscheduled material, the existence of which had not been disclosed. These three crates had been part of a delivery of four crates, identified as potentially relevant by the Directorate of Professional Standards and sent to the Abelard Two Investigation team on 03 March 2008. One of the four crates had been deemed not relevant by the Abelard Two Investigation team and returned to archive.<sup>1484</sup>

848. In his statement of October 2016, prepared for the civil proceedings (see Chapter 9, Post Abelard Two), former T/DCI Noel Beswick said that these three crates had remained in the Exhibits Store until 04 March 2011 '*overlooked by the exhibits officer and not brought to my attention. The exhibits officer's role was to schedule all exhibits from crates received and provide DS Dalby's disclosure team with non-exhibit material for their review. I believe that a genuine mistake was made by the exhibits officers who overlooked the three crates.*'<sup>1485</sup>

849. Former T/DCI Noel Beswick said that the documents in the crates were then scheduled as quickly as possible and 31 items were identified which had not previously been disclosed.<sup>1486</sup> DS Gary Dalby provided the completed schedule to Jonathan Rees QC.<sup>1487</sup>

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1480 Hearing, pp40-41, 01 February 2011.

1481 Witness statement of former T/DCI Noel Beswick, MPS109748001, p68, para 244, 20 October 2016.

1482 Witness statement of former T/DCI Noel Beswick, MPS109748001, p68, paras 243-244, 20 October 2016.

1483 Final Hearing Transcript of R v Rees and Others, MPS107449001, p9, 11 March 2011.

1484 Witness statement of former T/DCI Noel Beswick, MPS109748001, p69, para 246, 20 October 2016.

1485 Witness statement of former T/DCI Noel Beswick, MPS109748001, p69, para 246, 20 October 2016.

1486 Witness statement of former T/DCI Noel Beswick, MPS109748001, p69, para 247, 20 October 2016.

1487 Witness statement of former T/DCI Noel Beswick, MPS109748001, p69, para 247, 20 October 2016.

850. On 07 March 2011, Nicholas Hilliard QC informed the court of the discovery of the four further crates.<sup>1488</sup> All parties agreed to adjourn proceedings to consider their position in relation to this new material.

851. On 11 March 2011, the court reconvened, and Nicholas Hilliard QC informed all those present that the Prosecution had taken the decision to offer no evidence against each Defendant.<sup>1489</sup>

852. Nicholas Hilliard QC outlined the difficulty that the Prosecution had experienced regarding the loss of key prosecution witnesses, the complexity of the legal issues involved and the *'immense and unrelenting'*<sup>1490</sup> disclosure exercise. Nicholas Hilliard QC concluded:

*'the time has come when the prosecution no longer feel that we are able to satisfy the terms of paragraph 3.5 of the Code for Crown Prosecutors [1491] to which I referred earlier. It seems to us that that is now the inevitable conclusion to be drawn from the combination of matters that I have outlined.*

*'In addition, any jury's assessment of the available evidence would in our judgment inevitably and rightly be affected by the knowledge that the prosecution accept that we cannot be confident that the defence in this particular case necessarily have all of the material to which they are entitled.*

*'In those circumstances it seems to the prosecution that the prospects of conviction are also significantly affected to the point that it can no longer be said that the evidential test in the Code for Crown Prosecutors is satisfied. Police, Crown Prosecution Service and counsel are all of this view.'*<sup>1492</sup>

853. Mr Justice Maddison entered not guilty verdicts against Jonathan Rees, Garry Vian and Glenn Vian and former DS Sidney Fillery.<sup>1493</sup>

854. Following their acquittal, under the 'double jeopardy rule', there could be no second trial of the Defendants as a person could not be tried twice for the same crime. However, exceptions to this rule now exist under the Criminal Justice Act 2003. If new evidence emerges, it is possible to make an application to the Court of Appeal to quash a person's acquittal and order a retrial.<sup>1494</sup> The Court of Appeal must make the order applied for if the prosecutor can show that there is both *'new and compelling evidence against the acquitted person in relation to the qualifying offence'*<sup>1495</sup> and that it is in *'the interests of justice'*<sup>1496</sup> for the order to be made.<sup>1497</sup> The Serious Organised Crime and Police Act 2005 provides for specific factors which must be taken into account by the Court in deciding if the order should be made.

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1488 Hearing, p1, 07 March 2011.

1489 Final Hearing Transcript of R v Rees and Others, MPS107449001, pp10-13, 11 March 2011.

1490 Hearing, p2, 11 March 2011.

1491 Paragraph 3.5 of The Code for Crown Prosecutors 2013 was the provision that *'Prosecutors should not start or continue a prosecution where their view is that it is highly likely that a court will rule that a prosecution is an abuse of its process, and stay the proceedings.'*

1492 Hearing, p10-11, 11 March 2011.

1493 Hearing, p12-13, 11 March 2011.

1494 Criminal Justice Act 2003, s 76(1).

1495 Criminal Justice Act 2003, s 78(1).

1496 Criminal Justice Act 2003, s 79(1).

1497 Criminal Justice Act 2003, s 77(1).

855. On the basis of the evidence available and after the conclusion of the Abelard Two Investigation, the Metropolitan Police and the Crown Prosecution Service said that there was currently no prospect of a successful application to the Court of Appeal to order a retrial of Jonathan Rees, Glenn Vian, Garry Vian or James Cook (see Chapter 9, Post Abelard Two).

### 11.11 The Ruling of 25 March 2011 in relation to Gary Eaton

856. After the termination of the criminal proceedings against Jonathan Rees, James Cook, Glenn Vian and Garry Vian, Mr Justice Maddison handed down his judgment on Gary Eaton, which was originally intended to form part of a final judgment, on 25 March 2011.<sup>1498</sup>

857. Mr Justice Maddison had previously stated on 15 February 2010 that Gary Eaton was an extremely problematic witness for a number of reasons, including the fact that he had serious mental health issues, that there were multiple breaches of the sterile corridor required by the debriefing process, and that lawyers acting for the Defence had alleged that Gary Eaton had been prompted to give certain evidence. He had decided that his evidence would be excluded in any trial which might take place.<sup>1499</sup>

858. Mr Justice Maddison explained that he was issuing his judgment because *‘Mr Eaton is a prosecution witness in the trial of another serious criminal case due to be tried beginning in or about September 2011 (“the September case”). I have been asked to deliver a judgment on my findings in relation to Mr Eaton in the case before me for the information of the judge, the prosecution and the defence in the September case. What follows is based on oral evidence given and documentary evidence presented during the Eaton voire dire.’*<sup>1500</sup>

859. In his subsequent judgment, Mr Justice Maddison described the various complex psychiatric and psychological reports which had been prepared at different stages of Gary Eaton’s life, when he had received both inpatient and outpatient hospital treatment. His most recent inpatient treatment, before he became involved in the Abelard Two Investigation, had occurred between 21 October 2005 and 31 October 2005. Mr Justice Maddison described the preparations for the debrief, the significant and extensive difficulties experienced by both the Criminal Justice Protection Unit and the Witness Protection Unit in handling Gary Eaton and Person G23, and the debrief itself, with all the complexities resulting from the fact that Gary Eaton had to be accommodated for the greater part of his debrief.

#### 11.11.1 The question of whether DCS David Cook prompted Gary Eaton

860. Having considered the way in which Gary Eaton’s evidence developed (see section 6.4 above), Mr Justice Maddison stated, *‘I conclude that DCS Cook probably did prompt Mr Eaton to implicate the Vian brothers’*. He also said that *‘the fact that any prompting occurred, that it occurred in breach of the sterile corridor’* was *‘extremely concerning’*. He was not able to determine whether it was the case that Gary Eaton had been prompted to name two people he would not otherwise have named, or whether it was rather a case of him being prompted to add *‘details’* he would not otherwise have mentioned but in either case, he was *‘satisfied there was improper prompting of some kind’*.<sup>1501</sup>

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1498 Ruling of Mr Justice Maddison, MPS107506001, p3, para 9, undated.

1499 Hearing, p1, 15 February 2010.

1500 Ruling of Mr Justice Maddison, MPS107506001, p3, para 9, undated.

1501 Ruling of Mr Justice Maddison, MPS107506001, p36, para 167, undated.

861. Mr Justice Maddison then went on to consider whether there had been improper prompting in relation to other Defendants. He expressed his anxiety that, given the level of unauthorised contact between DCS David Cook and Gary Eaton, the absence of comprehensive written records of their conversations and the understatement of the level of contact, there may have been.<sup>1502</sup>

862. Referring to the schedules of contact with Gary Eaton which DCS David Cook had prepared, Mr Justice Maddison said, *'It is clear in my view that DCS Cook seriously understated the frequency of his previous contact with Mr Eaton when he completed these schedules, and he probably did so knowingly. I could readily understand some omissions due to human error and/or lack of time. However, the stark fact is that the schedule in its final form referred to only one-sixth of the days on which contacts were actually made.'*<sup>1503</sup> He later said, *'DCS Cook was aware of the sterile corridor system and of its purpose but contacted Mr Eaton repeatedly in breach of the system. He continued to do so even after receiving directions and giving undertakings not to do so.'*<sup>1504</sup>

### 11.11.2 The question of whether Gary Eaton was 'tipped off'

863. Mr Justice Maddison also considered the issue of whether Gary Eaton had been 'tipped off' that he had lied that his father was dead, when this was not the case (see section 6.4.6 above), saying:

*'The purpose of the approach to Mr Eaton in my view was in part at least to tip him off that he had been caught out lying about his father. I can see no other reason why DI Clarke should have told [named police officer<sup>1505</sup>] (as I accept he did) that there was information that Mr Eaton's father had given a statement to Jimmy Cook, who was out to "rubbish" Mr Eaton. I accept that additional witness protection issues would arise if Mr Eaton's father was alive. But had the only object of the exercise been to find out whether the father was alive or dead, the investigation squad could have done this without approaching Mr Eaton at all.'*<sup>1506</sup>

864. However, he said:

*'my finding that Mr Eaton was tipped off that he had been caught out lying about his father's death and thus given the chance to think of an explanation would not by itself have led me to exclude his evidence. As already stated, as it happened he gave an explanation almost immediately and without prompting. The lie about his father did not affect the subject-matter of his anticipated evidence at trial itself. It did of course go to his credibility, but the matter could have been elicited before the jury in that regard at any trial that may have taken place.'*<sup>1507</sup>

865. The evidence provided to the court by various officers was not consistent and Mr Justice Maddison was critical of DI Douglas Clarke's manner when giving evidence, and of the fact that none of the officers, apart from the Witness Protection Officer and DI Anthony Moore, had contemporaneous records of what had happened. Mr Justice Maddison also commented

<sup>1502</sup> Ruling of Mr Justice Maddison, MPS107506001, p36, para 167, undated.

<sup>1503</sup> Ruling of Mr Justice Maddison, MPS107506001, p32, para 156, undated.

<sup>1504</sup> Ruling of Mr Justice Maddison, MPS107506001, p34, para 166(b), undated.

<sup>1505</sup> A member of the Witness Protection Unit.

<sup>1506</sup> Ruling of Mr Justice Maddison, MPS107506001, p60, para 274, undated.

<sup>1507</sup> Ruling of Mr Justice Maddison, MPS107506001, p64, para 287, undated.

repeatedly on the failure by both DI Clarke and former DCS David Cook to keep records of their interaction and of their actions. Referring to the situation which developed relating to whether Gary Eaton's father was dead, Mr Justice Maddison said:

*'DI Clarke made no notes at all at the time. He first committed himself to paper in a witness statement dated 18/5/09, some 10 months later. He said that he made no notes not because he had anything to hide, but because he expected the DPSWPU [Directorate of Professional Standards Witness Protection Unit] and in particular [named police officer] to make notes. We are left with the highly unsatisfactory state of affairs in which DCS Cook made no notes because he expected DI Clarke to make notes, and DI Clarke made no notes because he expected the DPSWPU to take notes. At one stage, DI Clarke went so far as to say that it would have been a waste of time to make any notes. In re-examination, his tone was more contrite. He accepted that he should have kept a note. It had been a learning curve.'*<sup>1508</sup>

866. In 2020, DI Douglas Clarke denied that he had intended to 'tip off' Gary Eaton and told the Panel that, had he so intended, he would have acted in secrecy, pointing out that the Witness Protection Unit made a written record of his contact, as he had expected it to do.

### **11.11.3 The question of whether DCS David Cook committed perjury when giving evidence on Gary Eaton's behalf on 18 October 2008**

867. Referring to the question of whether former DCS David Cook had committed perjury when giving evidence on Gary Eaton's behalf at the hearing on 18 October 2008 at which Gary Eaton received three years imprisonment for the offences that he had admitted during his debriefing, rather than the 28 years which his offences would normally have attracted. Mr Justice Maddison said, *'I do not propose to set out the chronology of events relating to these matters, or to express conclusions in relation to them, except that I think it fair to DCS Cook to indicate that I would acquit him of perjury on 18/10/08.'*<sup>1509</sup>

### **11.11.4 The question of Gary Eaton's mental state**

868. Mr Justice Maddison considered whether when he was debriefed, Gary Eaton had a mental illness or personality disorder. Having considered the evidence of Professor Nigel Eastman for the Defence and Dr Laurence Chesterman for the Prosecution, he concluded, *'that Mr Eaton suffers from a personality disorder, and has done throughout his adult life. Encompassed within his disorder is APD [Antisocial Personality Disorder], though he also exhibits features indicative of a BPD [Borderline Personality Disorder] and possibly other identifiable disorders, and indeed of a disorder not otherwise specified. From time to time, in my judgment, his condition has deteriorated into frank mental illness in the form of depression.'*<sup>1510</sup> He questioned therefore *'whether an appropriate adult should have been present when Mr Eaton was de-briefed; and if so, whether the absence of such a person should have been taken into account when considering whether his evidence should be excluded.'*<sup>1511</sup>

869. He said, *'In the present case, however, it should have been obvious from what Mr Eaton told DCS Cook and DS Dalby at his very first meeting with them on 26/7/06 that there were potential mental problems. I appreciate that DS Dalby said that such potential problems did not "jump out at me", and I also appreciate that I have the benefit of hindsight. The fact remains,*

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1508 Ruling of Mr Justice Maddison, MPS107506001, pp58-59, para 268, undated.

1509 Ruling of Mr Justice Maddison, MPS107506001, p63, para 281, undated.

1510 Ruling of Mr Justice Maddison, MPS107506001, p43, para 189, undated.

1511 Ruling of Mr Justice Maddison, MPS107506001, p43, para 190, undated.



however, that Mr Eaton said that he had been sleeping for only two hours a night, had recently lost a huge amount of weight, had been in a psychiatric unit in the past, his health was suffering and “they want me to go back in again”.<sup>1512</sup>

### 11.11.5 The reliability of Gary Eaton as a witness

870. Mr Justice Maddison said that since the prosecution had offered no evidence in relation to the ‘Mooregate’ issue, (the issue of whether Gary Eaton had lied about his father being dead) it was not necessary for him to make a decision on the facts relating to this matter.<sup>1513</sup>

871. Finally, Mr Justice Maddison considered the reliability of Gary Eaton as a witness saying:

*‘Many features of the evidence placed before me would suggest that he was not reliable. He has a significant criminal record. He has a personality disorder which, amongst other things, renders him prone to telling lies, sometimes for no apparent reason. He has given different accounts at different times in relation to the day of Mr Morgan’s murder. He has told many demonstrable lies, not least about his own mother and father. He demonstrated irresponsible, difficult and truculent behaviour during his de-briefing. I do not propose to repeat myself in this regard. Reference can be made to Mr Eaton’s psychiatric history with which I have already dealt in some detail [...]*

*Mr Eaton is vulnerable to the criticism that as a SOCPA witness he is giving evidence for reasons of self-interest, having received a greatly reduced sentence for the many serious offences which he admitted in the course of his de-briefing.*<sup>1514</sup>

872. He continued:

*‘Despite these many indicators of unreliability, I would not have excluded Mr Eaton’s evidence because of them had they stood alone. The final assessment of the reliability of a witness is almost always one for a jury to make. All the indicators of unreliability in Mr Eaton’s case could have been explored during a trial. And although it has not been necessary for me to form a final view, my strong provisional view is that it would have been right in this particular case to admit expert evidence to inform the jury of the possible impact of Mr Eaton’s condition on his reliability as a witness.*

*However, in this case it is highly relevant that the man who, as I have found, was prompted in relation to the account he gave and thus as to his evidence, was a man whose reliability as a witness was so open to scrutiny; and what I have described as Mr Eaton’s indicators of unreliability have in that indirect way played an important part in my decision that his evidence would not have been admitted had there been a trial.*<sup>1515</sup>

873. He concluded his judgment saying:

*‘this judgment is intended to amplify pronouncements I made in open court about my approach to Mr Eaton’s evidence. I hope that it will also be helpful to the Judge and the parties in the future case in which it is anticipated that Mr Eaton will give evidence. However, entirely different considerations may apply in that case, about which I know*

1512 Ruling of Mr Justice Maddison, MPS107506001, p47, para 209, undated.

1513 Ruling of Mr Justice Maddison, MPS107506001, p63, para 281, undated.

1514 Ruling of Mr Justice Maddison, MPS107506001, p65, paras 290-291, undated.

1515 Ruling of Mr Justice Maddison, MPS107506001, p65, paras 292-293, undated.

*nothing. I would not presume to influence how the future case should be conducted, and this judgment should be seen in that light.*<sup>1516</sup>

874. In July 2011, following the issuing of Mr Justice Maddison's judgment, DCS Hamish Campbell wrote to Stuart Sampson warning of the implications of using Gary Eaton in any other forthcoming trial of resulting from Operation Haglight, which had been investigated by the Abelard Two Investigation (see paragraphs 504-521 above). He said, '*Personally I can see no merit in this witness at all and I am puzzled as to how he can now be regarded as a witness of truth for the new trial. The issues which the Judge commented upon affected Eaton's reliability and truthfulness in a broad context and was not solely focussed on his evidence as it related directly to the Morgan case. Whilst the prosecution, of course, is for the CPS to approve I feel compelled, in this case, to state my concerns.*'<sup>1517</sup>

875. DCS Hamish Campbell met with Counsel for the Prosecution in the forthcoming case (unrelated to the murder of Daniel Morgan), and again warned against using Gary Eaton as a witness. The prosecution proceeded, and that case also collapsed, on 19 September 2011 (see paragraph 517 above).<sup>1518</sup>

876. In November 2020, Stuart Sampson stated to the Panel that Operation Haglight was an unconnected case, in which Gary Eaton's evidence was corroborated and there was no evidence to suggest that it was untruthful. While the Panel accepts that some of Gary Eaton's evidence was corroborated, his credibility as a witness needed to be considered in light of his previous conduct during the Abelard Two Investigation and his previous history as was highlighted by DCS Hamish Campbell.

877. Gary Eaton should not have been used as a witness in the forthcoming case (unrelated to the murder of Daniel Morgan) given the state of knowledge about him in July 2011. The decision to use him as a witness was wrong, and it resulted in further costly processes and delay before the conspiracy to murder case was dismissed several months later.

878. On 16 September 2011, DS Gary Dalby submitted a closing report for the Abelard Two Investigation to D/Supt Hamish Campbell.<sup>1519</sup>

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1516 Ruling of Mr Justice Maddison, MPS107506001, pp65-66, para 294, undated.

1517 Collection of emails to/from Commander Simon Foy primarily from DCS Hamish Campbell concerning Operation Haglight and the decision whether or not to continue that case in light of Mr Justice Maddison ruling on Gary Eaton, MPS109603001, p5, 19 September 2011.

1518 Collection of emails to/from Commander Simon Foy primarily from DCS Hamish Campbell concerning Operation Haglight and the decision whether or not to continue that case in light of Mr Justice Maddison ruling on Gary Eaton, MPS109603001, p2, 19 September 2011.

1519 Closing Report of the Abelard Two Investigation, MPS109597001.

## 12 The Panel's general conclusions

879. The primary evidence against the four Defendants accused of the murder of Daniel Morgan came from witnesses whose evidence was successfully excluded on applications made by the Defence. While it was correct for the Metropolitan Police to seek new witnesses after the submission of the Advice File to the Crown Prosecution Service in 2007, the early warnings by Counsel and others about possible contamination of two of the three main witnesses, particularly by contact with DCS David Cook, should have led to much swifter action. The absence of any proper functioning oversight process during the period from 2008 to 2011 by AC John Yates was unacceptable.

880. Although he denied any wrongful conduct, DCS David Cook was partially responsible for the exclusion of Gary Eaton's evidence by Mr Justice Maddison, because of his unauthorised contacts with Gary Eaton. In subsequent years, a High Court Judge, Mr Justice Mitting, and then the Court of Appeal found, on the balance of probabilities, that the behaviour reported by DI Anthony Moore formed part of a broader pattern of criminal activity by DCS Cook designed to influence and even fabricate the evidence of prosecution witnesses in Abelard Two (see Chapter 9, Post Abelard Two).

881. The Abelard Two Investigation did not deliver a proper process for those charged in connection with the murder of Daniel Morgan, or for former DS Sidney Fillery, as the success of the civil proceedings brought by former DS Fillery and by Jonathan Rees and Glenn Vian demonstrated (see Chapter 9, Post Abelard Two). Ultimately, the criminal proceedings against the Defendants charged with the murder of Daniel Morgan were withdrawn because of multiple failures in disclosure and because there were questions about the credibility of at least three of the witnesses, and credible allegations that DCS David Cook, the Senior Investigating Officer, had coached at least one of the witnesses.

882. DCS David Cook does not seem to have engaged with the Abelard Two Investigation in a proper and continuous manner, and the absence of proper line management of him allowed this to continue. It is now known that, while fully employed by the Serious Organised Crime Agency, he was also engaged in the early stages of writing a book about the Investigation. He was proposing to write this book in conjunction with journalist, Michael Sullivan. The material available to the Panel indicates that he spent extensive periods of time working on this project, engaging with the BBC *Panorama* programme which was published three days after the end of criminal proceedings, and seeking to promote other projects of a similar nature. To enable these projects from 2006, he collected police materials without any permission to do so and shared vast quantities of material, some of it secret, with various journalists and others. These activities, together with his decision not to refer the cases arising as a consequence of the information received during the debriefs for investigation by the Specialist Crime Directorate, had a very significant impact on his ability to discharge his duties as the Senior Investigating Officer (see Chapter 9, Post-Abelard Two).

883. During the years from 2006 – 2011, former DCS David Cook was working full time at the Serious Organised Crime Agency while simultaneously acting as Senior Investigating Officer of one of the Metropolitan Police's most notorious unsolved crimes. Some very fine investigative work was done by officers of the Abelard Two Investigation, particularly by the Deputy Senior Investigating Officer, T/DCI Noel Beswick. Notwithstanding this, the Investigation as a whole was not afforded the appropriate levels of scrutiny, strategic direction and resourcing by senior management, particularly by AC John Yates, who refused to hand responsibility to others as his role changed and developed within the Metropolitan Police. It also created a lacuna within which DCS Cook was not managed by the Metropolitan Police and was able, by virtue of the seniority of his rank, to act freely in contravention of many established procedures and practices and in breach of his duties as a police officer.

884. The family of Daniel Morgan endured a long investigation, which started in 2006 and ended five years later. It involved a very lengthy pre-trial process which caused them great distress. In the end the arrangements put in place, particularly the decision to appoint DCS David Cook as Senior Investigating Officer and the arrangements which allowed former DCS Cook to act as 'Consultant Senior Investigating Officer' after his retirement from the Metropolitan Police, were not in the interests of the family of Daniel Morgan, those accused of his murder, the Metropolitan Police or the public.





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